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QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS IN ANY PART OF THE WORLD

Report on the situation of human rights in the Democratic Republic of the Congo, submitted by the Special Rapporteur, Mr. Roberto Garretón, in accordance with Commission on Human Rights resolution 2000/15

GE.01-10837 (E)

Summary

Mandate

Since 1994, the Commission on Human Rights has been studying the situation of human rights in the Republic of Zaire, now the Democratic Republic of the Congo. This is the seventh annual report of the Special Rapporteur and it is submitted in accordance with Commission on Human Rights resolution 2000/15, which extended his mandate for one year. In resolution A/C.3/55/L.62, the General Assembly requested him to submit a further report in 2001. The Commission on Human Rights also requested him, together with the Special Rapporteur on extrajudicial, summary or arbitrary executions and a member of the Working Group on Enforced or Involuntary Disappearances, to conduct an investigation into human rights violations and breaches of international humanitarian law committed between 1996 and 1997 in the territory of the Democratic Republic of the Congo, security conditions permitting. The requirements of the resolution have not been met.

Activities

The Special Rapporteur carried out a mission to the Democratic Republic of the Congo, visiting the area governed by the Government and by two of the rebel groups, which, with foreign support, control over 50 per cent of the territory of the country. He attended a special session of the Security Council on the Democratic Republic of the Congo and was later received by the Security Council at a special meeting under the so-called "Arria formula". He spoke with the highest authorities of the Democratic Republic of the Congo, RCD, MLC, the United Nations, the Facilitator for inter-Congolese dialogue, United Nations agencies and non-governmental organizations. Although he was prepared to undertake more than one mission to the Democratic Republic of the Congo and Geneva, as on other occasions, administrative formalities prevented him from doing so.

Main conclusions

In the Democratic Republic of the Congo, nine armed internal, international and internationalized internal conflicts are going on with the participation of 6 national armies and 21 irregular groups. The most serious conflict is the one which pits Rwanda, Uganda and Burundi, together with the Congolese Rally for Democracy (RCD), against the Kinshasa Government. RCD has split many times and the pro-Uganda and pro-Rwanda factions have fought on Congolese soil, causing death and destruction in a foreign country. In another conflict, the Movement for the Liberation of the Congo (MLC) is fighting the Government of President Kabila. Another conflict, started by Ugandan soldiers, opposes the Hema and Lendu ethnic groups. The victims of all these conflicts are always Congolese. In its resolution 1304 (2000), the Security Council expressly recognized that Uganda and Rwanda have violated the sovereignty and territorial integrity of the Democratic Republic of the Congo. Earlier, it described these two countries as "uninvited".

None of the parties has respected the 1999 Lusaka Ceasefire Agreement, although the forces' positions have remained relatively stable. Without consultations, the Government suspended the Agreement and has seriously hampered the work of the United Nations observer mission, to which it agreed in Lusaka.

Violations of human rights attributed to the Kinshasa Government

The most serious are violations of public freedoms: liberty of person (many persons are arrested for political reasons, regarded as traitors and sentenced as such), freedom of expression and opinion (more than 35 journalists were arrested, threatened or sentenced during the year and the media were warned by the Government about restrictions on what they could say) and freedom of association (non-governmental organizations are not recognized). There have also been cases of torture, some resulting in death. There have been attempts on people's lives, but less frequently than in RCD-controlled territory. President Kabila did not keep his word about suspending the death penalty, which continues to be applied.

The Government has not taken any step in the direction of democracy and political parties which do not adapt to new and inadmissible requirements continue to be prohibited. Without consulting any social or political sector, it established a constituent assembly which is lacking in representativity and in no way reduces the absolute powers assumed by the President when he won out against Mobutu in 1997. The inter-Congolese dialogue agreed on in Lusaka (1999) has been rejected by the Government.

Human rights violations in RCD-controlled territory

In the eastern regions occupied by the "rebel" or "aggressor" forces, there continues to be a climate of terror imposed by the armies of Rwanda, Uganda - and sometimes Burundi - and RCD. As in past years, massacres and other atrocities have been committed against the local population. Foreign soldiers operate with full impunity. Torture has led to a number of deaths. Liberty of person is violated and many non-governmental organization activists were detained or threatened during the year. There are no independent media and the scant information provided by organs of civil society is suppressed. Any dissent or opposition is presented as collaboration with Kabila or as "attempted genocide". There are frequent reports of transfers of Congolese to Rwanda and especially to Uganda, including children (to be drafted into the Ugandan army) and refugees, contrary to the principle of non-refoulement. The death penalty has been applied in a number of cases, and this is a step backwards compared to the situation one year previously. There have been attacks on parish churches and religious centres, priests and ministers have been murdered, meetings in churches prohibited and the archbishop of Bukavu prevented from carrying out his functions.

There is no room at all for political participation. RCD governs as a party-State and it also relies on a paramilitary militia, the Local Defence Unit (ADL), which has carried out many attacks.

Breaches of international humanitarian law committed by Government forces

The Government is responsible for the breaches of international humanitarian law committed by the Mai-Mai, which it has incorporated into the Congolese Armed Forces (FAC). It is also responsible for bombings of civilian populations: Gemena, Boma, Libenge (hospital).

Breaches of international humanitarian law committed by rebel forces allied to the uninvited countries

In reprisal for attacks on soldiers whom the Congolese population calls "aggressors", RCD forces retaliate by massacring defenceless civilian populations with machetes or knives and guns, causing thousands of victims, most notoriously in Ngenge, Kalehe; Kilambo; Katogota, Kamanyola, Lurbarika, Luberezi, Cidaho, Uvira, Shabunda; Lusenda-Lubumba, Lulingu, Butembo and Mwenga, in November 1999, when 15 women were buried alive after being tortured.

Situation of human rights advocates

The situation of human rights advocates is very precarious and dangerous. Throughout the territory, they are persecuted, detained and threatened and their offices are shut down. In the territory controlled by Kinshasa, they are regarded as allies of the Rwandans or the rebels and, in the east, as allies of Kabila.

REPORT ON THE SITUATION OF HUMAN RIGHTS IN THE DEMOCRATIC REPUBLIC OF THE CONGO, SUBMITTED BY THE SPECIAL RAPPORTEUR, MR. ROBERTO GARRETÓN, IN ACCORDANCE WITH COMMISSION ON HUMAN RIGHTS RESOLUTION 2000/15

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Abbreviations

ACL - PT	Constituent and Legislative Assembly - Transitional Parliament
ANR	National Information Agency (Agence nationale de renseignements)
APR	Rwandan Patriotic Army
ASADHO	Association africaine de défense des droits de l'homme
CEDA	Centre d'études, de documentation et d'animation civique
COM	Military Court (Cour de l'ordre militaire)
CNONGD	Conseil national des organisations non-gouvernementales de développement
CRONGD	Conseil régional des organisations non-gouvernementales de développement
CPRK	Kinshasa Penal and Rehabilitation Centre
DEMIAP	Detection of Unpatriotic Activities Police (Détection militaire des activités anti-patrie)
FAC	Congolese Armed Forces
ex-FAR	Former Rwandan Armed Forces
GSSP	Special Presidential Security Group (Groupe spécial de sécurité présidentielle)
ICRC	International Committee of the Red Cross
MLC	Movement for the Liberation of the Congo (Mouvement pour la libération du Congo)
MONUC	United Nations Organization Mission in the Democratic Republic of the Congo
MPR	People's Revolutionary Movement (Mouvement populaire pour la révolution)
OAU	Organization of African Unity
OHCHR	Office of the United Nations High Commissioner for Human Rights
PALU	Unified Lumumbist Party
PDSC	Democratic Social Christian Party
PIR	Rapid Intervention Police (Police d'intervention rapide)

RCD	Congolese Rally for Democracy (Rassemblement congolais pour la démocratie)
RCD/ML	Congolese Rally for Democracy/Liberation Movement (Rassemblement congolais pour la démocratie/Mouvement de libération)
RCD/Goma	Congolese Rally for Democracy (Rassemblement congolais pour la démocratie)/Goma
REFECO	Regroupement des femmes congolaises
RTNC	Congolese National Radio and Television Corporation (Radio Télévision Nationale Congolaise)
SADC	Southern African Development Community
SCEPDHO	Structure de culture, d'éducation populaire et des droits de l'homme
SOPROP	Solidarité pour la promotion sociale et la paix
UDPS	Union for Democracy and Social Progress
UNHCR	Office of the United Nations High Commissioner for Refugees
UNITA	National Union for the Total Independence of Angola
VSV	Voix des sans Voix

I. INTRODUCTION[1]

A. Mandate

1. The Special Rapporteur on the situation of human rights in the Democratic Republic of the Congo, the former Zaire, submits his seventh report to the Commission on Human Rights, in accordance with Commission resolution 2000/15. Pursuant to that resolution and General Assembly document A/54/361, the Special Rapporteur submitted his fourth interim report to the Assembly. The present report covers incidents that occurred up to 11 December 2000.

2. In its resolution 55/117, the General Assembly renewed the Special Rapporteur's mandate and requested him to submit a new report at its fifty-sixth session. Annex I lists the resolutions of the Commission on Human Rights and the General Assembly, as well as all the reports of the Special Rapporteur.

B. Activities and administrative obstacles

3. The Special Rapporteur participated in the special session of the Security Council held in January 2000 to consider the situation in the Democratic Republic of the Congo, convinced that human rights matters cannot be separated from the settlement of conflicts, whose root cause is the violation of human rights. The so-called "Carlsson report" (S/1999/1257) on the actions of the United Nations during the genocide in Rwanda had recently been issued and it highlights the fact that the genocide took place largely because the report of the Special Rapporteur on extrajudicial, summary or arbitrary executions, which was released just weeks before the genocide began and which announced that it was in preparation, had not been heeded and no measures had been taken to avoid the genocide. The Special Rapporteur took the opportunity to meet with the officials listed in annex II.

4. The Special Rapporteur then visited Geneva to submit his report at the fifty-sixth session of the Commission on Human Rights. He attended the annual meeting of the special rapporteurs and chairpersons of working groups of the Commission in June and then attended the fifty-fifth session of the General Assembly to submit his interim report. In New York, the Security Council preferred to hear the Special Rapporteur in closed session under the so-called "Arria formula". The Special Rapporteur hopes that the very interesting exchange of views that took place will help the Security Council formulate the decisions it must take in its efforts to bring peace to the Democratic Republic of the Congo.

5. Despite the requests he made, the Special Rapporteur was able to carry out only one two-week fact-finding mission to the Democratic Republic of the Congo and a single visit to Geneva during the year to prepare his interim report. The United Nations administration did not agree that he should carry out a second visit to Europe (to Belgium or Geneva) or that his field trip should last at least three weeks. It was even implied that the Special Rapporteur should carry out the field trip without the help of his assistant. During this trip, the Special Rapporteur held the meetings and visited the places listed in annex III.

6. The Special Rapporteur is compelled to draw the attention of the Commission on Human Rights to the difficult circumstances in which he has to carry out his duties. The only assistance he receives is from an extremely efficient assistant in the Office of the United Nations High Commissioner for Human Rights, who, unfortunately, also has responsibility for five other States. Not only does the assistant have to undertake field trips to deal with her other activities, but she also has no permanent contract and is forced to take a month-long break from work.

7. The President of the Security Council (the Ambassador of the United States of America to the United Nations), the Special Representative of the Secretary-General, the Government of the Democratic Republic of the Congo, the leaders of the Congolese Rally for Democracy (Rassemblement congolais pour la démocratie) (RCD) and the Movement for the Liberation of the Congo (Mouvement pour la libération du Congo) (MLC), eight ambassadors in Kinshasa, senior officials from the United Nations in New York and the heads of United Nations agencies in the Democratic Republic of the Congo expressed concern about the fact that the Special Rapporteur was paying only one brief visit to the country, rightly maintaining that that would affect his credibility.

8. Although his work is not remunerated, the Special Rapporteur has been and is still prepared to carry out his mandate in the best way possible, for which he needs not only more dedicated administrative support, but also, basically, to be able to carry out at least two visits a year to the country that is the subject of his mandate and two missions to the countries with the largest concentration of Congolese.

9. Furthermore, the United Nations administration is making it more and more difficult for special rapporteurs to carry out their work. Subsistence allowances are not paid (only advances are given against payment at a later date, which usually takes longer than eight months).[2] Worse still, extraordinary air-travel itineraries are chosen for missions (instead of a 10-hour non-stop flight from Santiago to New York, a flight is chosen with two stop overs, a change of planes and 15 hours' flying time) and the Special Rapporteur is told of this only 6 hours before departure, when the travel authorization has been issued a fortnight earlier. To give another example, when the Special Rapporteur accepted another non-remunerated assignment to attend a seminar in Ethiopia, he was sent, a few hours before the flight was due to take off, a ticket for Geneva because it was cheaper. As a result of such absurdities, one fellow special rapporteur refrained from introducing his report to the General Assembly in person and another, quite rightly, decided not to continue with his mandate.

10. During his mission to the Democratic Republic of the Congo (13-25 August 2000), the Special Rapporteur visited Kinshasa. He also visited Goma, Bukavu and Kisangani, which are under the control of RCD/Goma, and Gbadolite, which was captured by MLC. Both the Government and rebel authorities permitted him to work and conduct his interviews freely. Obstacles were encountered, however, when he attempted to visit the military and police detention centres in Kinshasa and Bukavu. He also had meetings with or reviewed the reports of political parties and of intergovernmental and non-governmental institutions and organizations (see E/CN.4/2000/42, annexes II-V).

11. The Special Rapporteur transmitted 60 communications and urgent appeals on behalf of 196 persons to the Government and 12 allegations of human rights violations concerning 20 persons. Nine of these were acknowledged, but he was given no information.

12. RCD authorities submitted two extensive reports to the Special Rapporteur, which the latter welcomes.

C. Pending activities and investigations

Joint mission to investigate allegations of massacres committed in 1996

13. In paragraph 5 (b) of its resolution 2000/15, the Commission on Human Rights renewed the mandate of the joint mission established by its resolution 1997/58 to investigate, as soon as security considerations permitted and, where appropriate, in cooperation with the National Commission of Inquiry, the violations of human rights and international humanitarian law committed in the former Zaire between 1996 and 1997.

14. The Government also requested the Secretary-General to carry out an investigation into the events that occurred in the locality of Ituri (letter of 8 February 2000), as well as an investigation into allegations concerning the deaths of 15 women who were buried alive or burnt in Mwenga, situated in RCD-controlled territory. Both the Government and RCD requested special investigations into the Katogota massacre. Because of the prevailing insecurity and lack of financial resources, these investigations are still pending.

D. International obligations of the Democratic Republic of the Congo

15. The Democratic Republic of the Congo is a party to the international human rights and international humanitarian law instruments listed in annex IV. The former Zaire has been a party since 8 June 1997 to the Protocol Additional to the Geneva Conventions of 12 August 1949 (Protocol I), but, contrary to the announcement, has not acceded to the second Protocol Additional to the Geneva Conventions. The Government is late in submitting 10 reports to treaty bodies. It has not completed a single report or replied to the communications addressed to it by the special thematic mechanisms.

16. On 25 May, the Government signed the Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict and, on 8 September, the Rome Statute of the International Criminal Court. The Special Rapporteur, as well as congratulating the Government, urges it to ratify both instruments as soon as possible.

E. Reprisals against individuals who cooperate with the United Nations

17. The Special Rapporteur denounces the reprisals taken against the following persons who cooperated with him during his visits or who submitted reports to him, pursuant to Commission on Human Rights resolution 2000/20.

18. In territory controlled by RCD/Goma:

Monsignor Emmanuel Kataliko, Archbishop of Bukavu, who was interviewed by the Special Rapporteur, was detained and subsequently exiled to Butembo on 12 February 2000;

Collete Kitoga was arrested in Goma upon her return from the fifty-sixth session of the Commission on Human Rights;

Gervais Chirhalwira Nkunzimwami, Paulin Bapolisi Bahuga, Regine Mutijima Bazalake and Alois Muzalia Wakyebwa, leaders of civil society in South Kivu with whom the Special Rapporteur met on 18 August, were arrested 10 days later;

Marcelin Musemakweli, Muzalia Loochi, Francolis Maheshe, Michel Aissi, Raphael Wakenge, Venantie Bisinwa, Mushagalusha, Baharanyi Bya Dunia, Jules Lwesso, Moïse Cifende, Dunia Yogolelo, Kizungu, Judge Emmanuel Shamavu, Kiza Kamatando, Moro Tubibu, Nestor Bauma and Joli Yaya, leaders of civil society and non-governmental human rights organizations, were arrested and brutally beaten on 9 October for having talks, a few days earlier in Bukavu, with the United Nations High Commissioner for Human Rights, Mrs. Mary Robinson. Many of them also met with the Special Rapporteur during his visit to that city.

19. In territory controlled by RCD/ML:

Sylvain Mudimbi Masudi was arrested in Beni for attending the session of the Commission on Human Rights and was transferred to Uganda.

II. THE VARIOUS ARMED CONFLICTS

20. The Democratic Republic of the Congo is bedevilled by various armed conflicts, some international (the Democratic Republic of the Congo against Rwanda, Uganda and Burundi, which receive RCD support, in the east) and others which are not international, but which have been internationalized by the participation of foreign troops (the conflict between the Bahema and the Balendu in the north-east). Others again are conflicts between outsiders fought in the territory of the Democratic Republic of the Congo (the Republic of the Congo against various opposition militias; Angolan, Burundian, Rwandan and Ugandan rebels against their respective Governments), which should be seen as outsiders' internal conflicts that have become internationalized (see annex V). At least six national armies[3] and 21 irregular armed groups (see annex VI) are involved in the conflicts, which all take place entirely in the territory of the Democratic Republic of the Congo, whose population has been decimated.

A. The conflict between the Government and the Congolese Rally for Democracy

21. The conflict between the Government and RCD, which began on 2 August 2000 following Rwanda's invasion of the Democratic Republic of the Congo, is the most serious of the conflicts, not only because of its political and economic repercussions, but also because it

restricts the enjoyment of the civil, cultural, economic, political and social rights of the entire region. The Security Council, in its resolution 1304 (2000), explicitly recognized that Uganda and Rwanda "have violated the sovereignty and territorial integrity of the Democratic Republic of the Congo". The Security Council had previously called those two countries "uninvited".

22. On one side are the armies of Rwanda, Burundi, Uganda and RCD/Goma, together with its paramilitary group, the Local Defence Unit (ADL). During his visit to the country, the Special Rapporteur received evidence of the involvement, on behalf of the armies of Rwanda and Uganda, of Interahamwe deserters and Rwandan Bahutu prisoners, who were released and sent to the front. The mineral riches of the Democratic Republic of the Congo in Katanga, Orientale province and Kasai Oriental have been so depleted by foreign troops and RCD that the Security Council established an expert panel on the illegal exploitation of natural resources and other forms of wealth of the Democratic Republic of the Congo by occupying and rebel forces.[4]

23. The Government has relied for its defence on its own armed forces (FAC) and on counter-rebel militias: it has open and confirmed ties to the Mai-Mai,[5] a group that is gaining in popularity with a local population tired of being subjected to the control of forces they consider foreign. It also has informal ties to other "counter-rebels": RCD deserters, Rwandan Bahutu Interahamwe (the "Mongol" militia), members of the former Rwandan Armed Forces (FAR) and Burundian Bahutu, among others.

24. The violence always follows the same pattern: it is unleashed by the attacks of the counter-rebels against military forces which they consider to be aggressors. The response of the Rwandan army, RCD and the Burundian army is to attack the defenceless civilian population, committing indescribable massacres, such as those that took place at Katogota, on 15 May, Kamanyola, Lurbarika and Luberizi, or the massacre in July on the Lusenda-Lubumba highway, as well as the events - denied, as others have been, by RCD/Goma - that took place in Mwenga in November 1999, in which 15 women were tortured and buried alive (see the report of the Secretary-General in document S/2000/330, para. 61).

25. Some Banyamulenges (Batutsi of Rwandan origin, not recognized as having Congolese nationality), who started the first war against the dictator Mobutu (1996-1997), have been responsible for violent incidents aimed at RCD, as they were fed up at being the target of the resentment of the Congolese over the abuses committed by the Rwandan Patriotic Army (APR).

26. Security Council resolution 1304 (2000), cited above, demands that Uganda and Rwanda "withdraw all their forces" from the Democratic Republic of the Congo and that this withdrawal should be reciprocated by the other parties. The Secretary-General reported at the beginning of December that neither Rwanda nor Uganda had withdrawn their troops.

B. The conflict between the Government and the Movement for the Liberation of the Congo

27. In Equateur province, MLC, with the support of Uganda and the involvement, for which there is convincing evidence, of the National Union for the Total Independence of Angola (UNITA), is fighting the Congolese Armed Forces (FAC), which are supported by Zimbabwe

and Namibia. It is in this province that the parties have shown the least respect for the ceasefire and indeed the rebel leader has long maintained that he felt under no obligation to observe it. President Kabila contends that MLC has rendered the ceasefire agreement null and void.

C. Clashes between Ugandan and Rwandan military forces in Kisangani

28. The conflict that best illustrates Rwanda's and Uganda's lust for conquest is the one in Kisangani, the third largest city in the country, between the "uninvited armies" of Rwanda and Uganda (supported by RCD/ML). Kisangani was previously under the control of the two RCD factions, but, since the bloody clashes that destroyed the city on 5 and 9 May and 9 June, it has been ruled with an iron fist by Rwanda and RCD/Goma. The cause of the conflict is both economic (both armies want the huge wealth of Orientale province) and political (control of the territory).

29. The Special Rapporteur saw for himself the destruction wreaked on the city by the foreign armies, especially in the fighting in June. In addition to casualties among the soldiers, about 1,000 Congolese civilians died and thousands more were wounded.

30. Calls for a ceasefire, including from the Security Council, went unheeded and moves towards demilitarization were disregarded the very next day. Only the most recent agreement on the withdrawal of the troops from the city appears to have been complied with.

D. Tribal conflict between the Balendu and the Bahema

31. This is a political and artificial conflict caused by the Ugandan presence in the region, but it has been classed as a tribal conflict. Except for some incidents in 1911, 1923 and 1966, these two ethnic groups had lived side by side without major difficulties for nearly three centuries. However, since they arrived in the Ituri region, the Ugandan troops have encouraged and given military support to the Bahema (who are of Ugandan origin) to seize land from the Balendu, who have been in the region longer. All the officials appointed by the Ugandan soldiers are from the Hema ethnic group. The current confrontations, which flared up again in August 2000, have resulted in some 10,000 deaths and the displacement of some 50,000 people.

E. Ceasefire agreements and observance thereof

32. In the previous year's report (E/CN.4/2000/42, para. 18 and annex X), it was reported that, thanks to pressure from the international community, the parties concluded a ceasefire agreement in Lusaka in 1999. As they did not abide by the agreement, the timetable had to be adjusted (Lusaka, 12 February 2000; Kampala, 1 March and 8 April 2000). Only the last agreement was observed, except in the fighting between MLC and RCD. Despite some outbreaks of heavy fighting for example, in October, forces loyal to the Government attacked the positions of RCD and the aggressors in Katanga; in November, the latter re-took Pepa; and, in December, there was fighting in Pweto; the positions held by the belligerents in August 1999 have, on the whole, not changed a great deal. The most serious matter is the continued use of hate speech, about which the General Assembly recently expressed its concern in paragraph 2 (b) of its resolution A/C.3/55/L.62.

33. In the Lusaka Agreement, the signatories (including the Government of the Democratic Republic of the Congo) agreed to establish a United Nations mission that would include a contingent of 5,537 observers and security personnel in the territory of the conflict; they also agreed on the disarming of the armed groups. However, when the United Nations Organization Mission in the Democratic Republic of the Congo (MONUC) arrived in the country, the Government was inexplicably aggressive towards it, blaming the United Nations for the death of Lumumba in 1961.[6] Subsequently, MONUC continued to be attacked verbally and in sometimes violent demonstrations outside its headquarters. It was considered to be lacking in objectivity, on the basis that its reports supposedly attached greater importance to the Mai-Mai and Interahamwe attacks on the RCD forces and their allies than to the latter's massacres of defenceless Congolese civilians.

34. For these reasons and especially because of the widespread climate of insecurity, the Secretary-General considered that the deployment of observers was still possible. In addition, there is a demand from Rwanda that MONUC should act as a buffer along the various fronts, a role which MONUC quite rightly considers to be outside its mandate. Disarmament is a matter for the signatories, if the irregular groups themselves do not disarm themselves.

35. On 23 August, in a surprising about-face, the Government, while dismissing the Lusaka Agreement, offered strong support for MONUC and authorized its deployment throughout the territory. However, within a month, it again drew back from that position, preventing MONUC from entering Mbandaka and withdrawing the flight facilities it had announced. It is clear from this that the Government's only concern was to dismiss the Lusaka Agreement, as it had earlier implied.

36. On the same occasion, the Government proposed a revision of the Lusaka Agreements, which was unacceptable to the other parties and which went down badly with the allies of the Democratic Republic of the Congo, especially Zimbabwe, as they had not been consulted on a measure of that kind. The international community trying to settle the conflict became convinced that the peace process was blocked by President Kabila's intransigence. To make matters worse, the Ministry of Justice declared that the Democratic Republic of the Congo had no alternative but to carry on with the war. The immediate reaction of the rebel and foreign forces occupying the Democratic Republic of the Congo was to prepare for continued fighting and even the Ugandan Minister for Foreign Affairs considered the measure a "declaration of war".

37. Despite all the statements to the contrary and despite the conversations between Presidents Kabila and Kagame (Eldoret, Kenya) and the influence of Kenya, Zambia, South Africa, Algeria, Nigeria, Botswana, Mozambique, the Libyan Arab Jamahiriya, Mali, the Organization of African Unity (OAU), the United Nations and others, the parties all seem bent on winning the war by military means. In his report on MONUC dated 21 September (S/2000/888), the Secretary-General observed that there had been little, if any, progress in the peace process and the inter-Congolese dialogue.

38. A new agreement to pull troops back by 15 kilometres was reached between the Democratic Republic of the Congo, Zimbabwe, Namibia, Uganda and Rwanda in Maputo

on 16 October. Rwanda offered to pull back by 200 kilometres. However, the rebel movements did not feel bound by the agreement. The Government of Rwanda continues to insist that it would be impracticable to deploy Blue Helmets between the combatants.

39. An African initiative that might ease tensions was adopted in November at a meeting in Tripoli, where it was agreed to establish a neutral African force to monitor the Democratic Republic of the Congo's borders with Uganda and Rwanda in order to allow the latter to withdraw from the former's territory. However, once again, RCD/Goma, supported by Rwanda, and MLC, supported by Uganda, rejected the initiative because they had not been consulted. Later, an agreement reached in Maputo on demobilization and the deployment of MONUC was rejected by Kabila as an attack on sovereignty.

F. Impact of the war; refugees and displaced persons

40. The war has had a catastrophic impact on the country, which has been destroyed. Over half the Congolese have been affected by it. All public moneys are being diverted to the war effort. There have been terrible epidemics. Only 9 per cent of all health districts have refrigerators for keeping medicines. In Kinshasa, 70 per cent of its 7 million inhabitants have less than a dollar a day to feed themselves. Cultivation is at a standstill, reducing the food supply to such an extent that 17 per cent of the population (16 million people) are undernourished, according to a report by the Secretary-General. The number of shégués (street children) has risen alarmingly.

41. The Congolese have looked on helplessly while those they call aggressors have taken away all their wealth and caused enormous ecological damage.

42. The number of internally displaced persons has increased in recent months to around 2 million people, half of whom are without any assistance.[7] The vast majority come from the occupied territories in the east. Their situation was made worse by the attacks carried out in July 2000 on the camps in Sake and Uvira for displaced persons, both by the Mai-Mai and by Rwandan soldiers; these attacks forced many non-governmental organizations to suspend their relief activities. In Maniema, over 68 per cent of the population has been displaced. Humanitarian relief is able to reach only 50 per cent of the displaced persons. There are over 170,000 Angolan refugees living in the Democratic Republic of the Congo and this figure is on the increase as a result of the new outbreak of fighting between the Government in Luanda and UNITA; the figure is expected to rise above 200,000, and this would worsen the humanitarian situation in the Democratic Republic of the Congo.

43. If one includes those who sought asylum when Mobutu was in power, there are Congolese refugees all over the world. Most recently, due to the fighting between RCD and MLC, there are reported to be some 72,000 refugees in Congo Brazzaville.

44. Today, in September 2000, some 6,400 of the 30,000 Congolese Batutsi who had sought refuge in Rwanda are returning to Goma with support from RCD through a non-governmental

organization (Tous pour la paix) set up and supported by RCD, but against the wishes of the Office of the United Nations High Commissioner for Refugees (UNHCR), which fears that this may lead to increased violence. However, despite these fears, the Congolese people has welcomed its returning Batutsi brothers.

45. The violence of the war has given rise to terrorist acts that were unheard of in the country. One incident worth mentioning is the grenade attack on a fair being held in a brewery in Bukavu on 26 August which left 8 people dead and 43 wounded and caused widespread panic in the area. There is nothing to back up RCD claims that this extremely serious incident was the work of troops from Kinshasa. On the basis of this unfounded assumption, RCD detained prominent leaders from civil society, including some who had met with the Special Rapporteur a few days earlier. The pretext for arresting them and then deporting them to Kisangani was that, a few days previously, President Kabila had appointed them to be members of his Constituent and Legislative Assembly - Transitional Parliament (ACL-PT). No investigation was carried out into the incident. However, all the witnesses say there were Rwandan soldiers at the fair and that they left moments before the explosion.

G. Situation of persons at risk

46. These are the Batutsi or people or who look like Tutsi living in the territory under government control, who fear reprisals from the population for the "Rwandan aggression". At the start of the war, the Government called for their elimination (see E/CN.4/1999/31, para. 45), but later it opted for a position of protection and even established protection centres (not detention centres, as alleged by the Rwandan Government and RCD) with the help of the International Committee of the Red Cross (ICRC) and foreign Governments. This policy has made it possible for many people to be repatriated or to take refuge in Rwanda, Uganda and Burundi and others have found refuge in Cameroon, Benin, the United States of America or Canada. In 2000, there were 2,796 people living in the protection camps; when the Special Rapporteur visited the camps in Kinshasa, the number had fallen to 299.

47. Despite this positive development, between 14 and 15 October, 20 people of the same origin, including 5 children, were detained in Mbuji Mayi and taken to Kinshasa, where they are being held in buildings belonging either to the National Information Agency (ANR) or the Detection of Unpatriotic Activities Police (DEMIAP) and denied visits from lawyers, families or the Office of the United Nations High Commissioner for Human Rights, in a blatant example of arbitrary detention on the grounds of ethnicity.

III. POLITICAL DEVELOPMENT AND DEMOCRATIZATION IN GOVERNMENT-CONTROLLED TERRITORY

48. The concentration of political power in the Kinshasa Government has not changed. Since 17 May 1997, the President has continued to exercise full executive and legislative powers and he has extensive powers in respect of the judiciary.[8] The frequent shuffling of ministers has further frustrated hopes for democracy.

49. Contrary to the nearly unanimous will of the Congolese people, the Government has made no move towards democracy and everything would seem to indicate that it does not wish

to do so. The only thing that has changed is that the "national debate", which the President instituted, in 1999, but which was never accepted by civil society, has ended. Although the main moral, religious,[9] political and civil institutions are clamouring for democracy - in the sense of Commission on Human Rights resolution 2000/47 - and demanding the dialogue provided for at Lusaka as a means thereto, President Kabila has shown no interest in the matter. On 7 December 2000, the President extended individual invitations to a number of political leaders, but, far from making any overtures, he remained rigidly intransigent. Naturally, he proposed yet another "technical commission", which this time around would study the demands for democracy of the few parties present.

50. The dialogue Facilitator designated by OAU, the distinguished former President of Botswana, Sir Ketumile Masire, was accepted and later rejected by the Government, which vaguely accused him of having a "duplicity of roles", prevented him from travelling to areas under rebel control, rejected his work plan, refused to receive him and shut down his office in Kinshasa. It also prevented representatives of political parties and civil society organizations from attending preparatory meetings for the dialogue, including the preparatory meeting in Benin, by withholding their airline tickets and passports. Lastly, President Kabila proposed that the Facilitator should be replaced, a proposal that was not accepted by the rest of the participants to the Lusaka Agreement.

51. The ban on political parties and civil organizations that do not meet the draconian conditions set by Decree-Law No. 194 and Decree-Law No. 195 (see E/CN.4/2000/42, paras. 33 and 70) remains in effect; persons who are not members of a party constituted in accordance with these laws are not permitted to make political speeches; pro-Government parties (the only ones recognized) have been established (Union Congolaise de la gauche (UCG), founded by the former Chairman of the People's Power Committees (CPP)). All political activity has been suppressed and hundreds of party leaders and members have been arrested, with many of them tried by the Military Court, sometimes on charges of being traitors to their country. Others have been victims of personal attacks (Union pour la démocratie et le progrès sociale (UDPS) on 26 July), persecution by the CPP (Parti Lumumbiste unifié (PALU) on 17 January) and unlawful searches (MNC/L on 22 April), while others have been prevented from travelling abroad or to other cities within the Democratic Republic of the Congo, and so forth.

52. The discredited CPP remain (the election of members failed owing to lack of popular interest), as does their militia, the Force d'auto-défense populaire (FAP); the President has rejected the agreements regarding the democratization of the "national consultation", which had been called for by religious leaders and which demanded that the Lusaka Agreements and the inter-Congolese dialogue should be respected. Limited dialogues were convened (in January, February and May 2000), but only supporters took part.

53. The Government has lost much of its initial popularity owing to its stubborn refusal to move towards democracy and its expressed rejection of the agreements of the 1991-1992 National Sovereign Conference and the dialogue that was agreed in Lusaka.

54. The population's disgruntlement is so great that the democratic opposition has also suffered outright failures, such as the call for a "ville morte" (general strike) in April and the

appeal by the leader of UPDS to the foreign-backed rebels to attend a meeting of the opposition in Madrid. The people did not support a dialogue with those serving countries considered to be aggressors; moreover, no rebel group agreed to attend.

55. Notwithstanding the Lusaka Agreements, on 21 August 2000, the Government established a Constituent and Legislative Assembly (ACL-PT) under its sole direction and without any consultation. In the absence of any national consensus, the President decided that the Assembly's headquarters would be in Lubumbashi, capital of Katanga province, where he came from. The 300 members appointed by the President consisted of 240 who had nominated themselves and 60 who were appointed without any consultation whatsoever. Although a few opponents were called in their personal capacity, the Assembly was not accepted by the country's best known leaders. Nor did anyone approve such extremely costly and pointless measures as the transfer of the judiciary to Kisangani and the Army Chief of Staff to Mbuji Mayi.

56. Although it was presented as limiting the President's absolute power, the Assembly has no real duties; it merely advises the President, its opinions are not binding and it takes action only when asked to do so.

57. The Government's reluctance to promote democratization is borne out by the announcements and preparatory activities for democratization which have been issued periodically by the President and have always failed:

19 May 1997	Announcement of a Constituent Assembly.
23 October 1997	Decree-Law No. 37 establishing a Constitutional Commission (in place of or in preparation for the Assembly that had been announced): 46 members appointed by the Government. Bill submitted in March 1998.
18 March 1998	Establishment of the Constituent and Legislative Assembly. Was to have 300 members who could be removed by the President. Never took office.
21 September 1998	Establishment of a committee on the reform of the draft Constitution prepared by the Constituent and Legislative Assembly (the draft was never adopted, and this raises the question of why it needed revising).
27 March 1999	Decree-Law No. 213 establishing a preparatory committee for a national debate to discuss three issues selected unilaterally by the President.
10 July 1999	Signing of the Lusaka Ceasefire Agreement, which provides for a national inter-Congolese dialogue. Dialogue never begun.

14 October 1999	Initiation of the "national debate", which was rejected by the population. Abandoned in April 2000.
18 February 2000	Decree-Law No. 15, again establishing a 300-member Constituent and Legislative Assembly. Never established.
14 March 2000	Establishment of a "Preparatory Committee".
10 April 2000	Dissolution by the President of the Constituent and Legislative Assembly, which was never set up, in favour of national dialogue.
May 2000	Third announcement of a Constituent and Legislative Assembly, to be inaugurated on 1 July 2000 with 300 members, claiming, all evidence to the contrary, that the inter-Congolese dialogue had not begun.
1 July 2000	Appointment by the Government of 240 members to the next Constituent and Legislative Assembly, with the remaining 60 appointed on 8 July. In flagrant violation of the Lusaka agreements, it decides that a "commission" of the Assembly should be the body responsible for the inter-Congolese dialogue.
21 August 2000	The Constituent and Legislative Assembly takes office in an impressive inaugural ceremony, to public indifference.

58. By early December 2000, the failure of the Assembly was evident: it seldom met, the President continued to promulgate legislation without consulting it and it was entirely forgotten by the public. Accordingly, the Special Rapporteur reiterates the view which he expressed in an earlier report (E/CN.4/1999/31, para. 20) and which is applicable to the current Assembly: "Neither the Drafting Committee of the draft Constitution nor the Constituent and Legislative Assembly or the Reform Committee achieved any credibility and in practice the President retains his very broad-ranging powers, as confirmed in the last draft".

IV. POLITICAL DEVELOPMENT AND DEMOCRATIZATION IN TERRITORY CONTROLLED BY REBEL MOVEMENTS

59. In the territory controlled by RCD, the Congolese people's feelings of terror and humiliation, noted in previous reports[10] and by the Secretary-General (S/2000/888, para. 61), persist, and this explains the increasing popularity of the Mai-Mai.

60. Absolute power is exercised by the only party, RCD: provincial governors and heads of public services preside over their own RCD cells. The party officials interviewed disagree with the Special Rapporteur that theirs is a "party-State" since it is not a party, but a movement of trade unions, and they maintain that pluralism will come about eventually. In the Special Rapporteur's view, this explanation only confirms that the party is in reality State-run. No efforts towards greater pluralism are in evidence.

61. The absence of political participation is reflected in the failure of efforts to form an independent political party in Goma, the Movement patriotique congolais (MPC); this effort was thwarted by RCD, which arrested the new party's frustrated founder and expelled him from its territory. RCD tried to deceive the Facilitator when he visited Goma by providing him with a list of parties that either did not exist or had not functioned for years, such as the Front uni de l'opposition non armée (FRONUAR).

62. Of particular concern is the functioning of a paramilitary group trained by RCD, the Local Defence Unit or Auto-défense local (ADL), which has been the source of much insecurity. RCD officials deny that the group is paramilitary in nature, maintaining that it is merely the population organizing itself. However, a study of the group's statutes ("A Local Defence Unit Training Programme") disproves this statement: persons wishing to become members of ADL "may not display an ethnic or regional bias" and ADL objectives include "depriving the enemy of all support" and "weakening the enemy by showing him that times have changed, that the population is not prepared to be badly led or manipulated"; its function is one of "complementarity" and "mutual assistance" ("entraide"). To RCD and the Rwandan troops, "enemy" means the army of the Democratic Republic of the Congo; persons with "an ethnic bias" are members of indigenous groups; persons with a "regional bias" are those who reject foreign occupation. There is no evidence of "mutual assistance" and "complementarity" would appear to mean support for APR military activities.

63. The paramilitary nature of ADL is demonstrated by the killing of a citizen on 26 October in Goma, the attack on 21 October in Kichanga on Agro Action, a German non-governmental organization and the theft of all items intended for assistance to the displaced.

64. Any form of dissidence is considered to be "an incitement to racial or national hatred" or "to genocide" and is therefore suppressed. The whole population is suspected of collaborating with the Mai-Mai. A typical example is the absurd expulsion of Archbishop Emmanuel Kataliko from the Diocese of Bukavu for more than seven months for his Christmas message, which was considered to be an incitement to genocide. The Special Rapporteur has read and studied the text closely, and he can safely say that there is not a single sentence, word or idea, taken in isolation or in context, that could be interpreted, even with the worst of intentions, in this way.

65. Attempts to humiliate the population (see E/CN.4/2000/42, para. 46), continue: RCD/Goma has taken land from the Nyndu tribe, already punished by the horrible Kasika massacre in 1998 (see E/CN.4/1999/31, para. 56), in order to create a Minembwe territory. On 22 November, RDC established the Great Lakes Mining Company, granting it a monopoly for the sale of colombo-tantalite.

66. To make matters worse, RCD/Goma set up a federal administration system (Decree No. 26/2000), which was perceived by the distraught local population as further evidence of the de facto partition of the country. This measure was unanimously rejected by democratic groups in both the east and the west.

67. The population recognizes and defends the guerrilla activities of the Mai-Mai, blaming "Rwandan soldiers" instead for the violence. The Mai-Mai "are our sons", many of those interviewed said.

68. The population's opposition is illustrated by various acts of protest, such as the strikes held in Bukavu (including the strikes by students on 24 January and from 31 January to 6 February 2000; a demonstration by women in Kisangani on 31 January 2000; strikes in Goma on 14 February and in Uvira and Kindu; and a highly successful week-long beer strike in Bukavu in April). In July the Banyamulenge expressed their displeasure with the massacres of the local population, which had made their own situation worse, by organizing marches in Bukavu and Uvira. Women also demonstrated in Bukavu and Uvira in August to voice their unhappiness with various measures.

69. RCD has frequently split into factions (see E/CN.4/2000/42, para. 43) and efforts at reunification are being made not among Congolese leaders, who appear to be leading the factions, but between the Presidents of Uganda and Rwanda (November 1999 and January 2000). In March, three RCD/Goma leaders defected and were later accused, as usual, of spying by Kabila; subsequently, other internal dissidents broke away and formed RCD/National, which is headed by Roger Lumbala and has its headquarters at Bafwasende, near Kisangani. In October, RCD/Goma abruptly replaced the man who had been its leader until then, Dr. Emile Elunga, with Dr. Adolphe Onusumba, although it received support from Nzanga Mobutu, son of the former dictator.

70. RCD/Bunia also split into factions. In April and August, attempts to depose the head of that group were defeated through the influence, once again, of the President of Uganda and his army, while, in September, the Ugandan army put down an uprising against Chairman Wamba, with the rebels transferred to Kampala. Towards the end of 2000, the split between Wamba's faction and that of his former collaborators, Ateenyi Tibasima and Mbusa Nyamwisi, who are supported by Uganda, which had produced confrontations and roughly 40 deaths, became definitive.

71. The smaller RCD/Bunia faction has also taken steps that have stirred up the population, such as supporting the Hema against the Lendu or the creation of the Kibali-Ituri province to favour the former.

72. In the territory controlled by MLC, the people do not live in terror, but there is one-party rule. The representative of civil society to the dialogue that was to be held in Benin was appointed by MLC. The brief duration of the visit to Gbadolite made it impossible to obtain further information.

V. HUMAN RIGHTS VIOLATIONS COMMITTED BY THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF THE CONGO[11]

Right to life

73. While there have been infringements of the right to life, massacres do not generally occur in the western part of the country as frequently as they do in the area controlled by RCD.

74. Death penalty. On numerous occasions (10 December 1999, 27 January 2000, 23 August 2000 and 2 September 2000), President Kabila or one of his ministers has announced or informed the Special Rapporteur or the United Nations High Commissioner for Human Rights

that the country is opposed to the death penalty (see E/CN.4/2000/42, paras. 49 and 50) and intends to suspend it. Once again, however, this opposition to the death penalty is disproved by events: within the past year, some 25 persons have been executed, most recently on 11 December. All these sentences were handed down by the Military Court, whose Prosecutor, Lieutenant Colonel Charles Alamba Mongako, is a staunch supporter of the death penalty. The President, on the other hand, promised the Special Rapporteur that he would commute the death sentence of 41 prisoners in the Kinshasa Penal and Rehabilitation Centre (CPRK) whom the Special Rapporteur visited. Not only did the President not do this, but another two prisoners were added to the list of those condemned (the former Director of the National Information Agency in Equateur, Njango Mfuganzam Montula Benjamin, for example).

75. The Special Rapporteur wishes to note an extremely serious event that occurred at the very end of the reporting period. While the situation is unclear, since the Government has chosen not to provide any clarification, on 30 October, Anselme Masasu Ningada, a former political prisoner released under the amnesty, was again arrested on charges of organizing a plot and was transferred to Lubumbashi, where he disappeared from sight. At the same time, 250 young soldiers from Kivu were arrested and taken to Kinshasa, where they are alleged to be in a secret Kinshasa Penal and Rehabilitation Centre building. Some 36 of these are alleged to have been executed in secret without a trial. The lack of any response from the Government encourages rumours.

76. Enforced disappearances. The number of reported disappearances has declined. None of the cases recorded in previous years, however, has been cleared up. Nicolas Bantu, Aime Ngoba and Serge Itala have been missing since their arrest in December 1999.

77. Death by torture. Systematic torture has led to the death of several persons, such as Kolombo Ilunga in July, who was arrested by the police in Lubumbashi and whose corpse was found in the morgue, and Kituni Masudi, who was arrested on 7 October and died on 12 October as a result of torture at the hands of ANR and the Detection of Unpatriotic Activities Police (DEMIAP) in Kinshasa: he was forced to sit on a burning grill, his legs were broken with a hammer and he was beaten over and over.

78. Political assassinations. None have been reported, although the above-mentioned case of Anselme Masasu and his 36 associates might be considered to be extrajudicial killings.

Right to physical and psychological integrity

79. There has been no progress in the situation described in previous reports with regard to the brutal and systematic practice of torture, especially by GSSP, but also by DEMIAP and ANR. Tolerance of the existence of secret detention centres over which no control whatsoever is exercised contributes to this scourge. One particularly well-known centre is the one known as the GLM Centre; its commander was detained on 9 March, but, unfortunately, was freed days later, with no charges having been filed. Torture is facilitated by the fact that DEMIAP has no public register of detainees and, in the Circo, not all are listed in a single register, as the Special Rapporteur observed. Representatives of the Human Rights Office of the Democratic Republic of the Congo are not authorized to enter any centre that is not a prison.

The most common forms of torture are beating until the victim loses consciousness, stripping, holding the head in a tub of water until the victim nearly drowns, blows to the sexual organs and whipping.

Right to liberty of person

80. While the right most often violated in the east is the right to life, in the area under Government control, it is the right to liberty of person. Journalists, lawyers, religious leaders, human rights workers, politicians, trade union leaders and others are detained, generally on charges of "collusion with the rebels" or violating the ban on political activities. The period of detention varies from a few days to years. Often no charges are filed against the prisoner, although detainees are sometimes transferred to the Court of State Security or the Military Court. No one escapes the threat of imprisonment, not even retired judges (such as the former President of the Supreme Court who had been a member of the United Nations Group of Three dealing with the situation in Southern Africa during the apartheid era), active judges (a military judge in March and the deputy prosecutor and the police inspector of the Military Court in October), ambassadors (the representative to Kenya), ministers (six were arrested on 2 June) or other officials at this level and even a member of the Constituent and Legislative Assembly, who was arrested between the time of his appointment and the time he was sworn in.

81. One positive step has been the discretional unconditional, though admittedly partial, amnesty which was declared on 19 February and which led to the belated release of some 300 prisoners. In July, another 800 soldiers were released in order to be sent to the front.[12]

Prison conditions

82. The Special Rapporteur was able to confirm that, in the Circo of the Kinshasa police inspectorate, 10 UDPS leaders who had been held there until the day he arrived in the country had not been registered. On the morning of the day the Special Rapporteur arrived, they were taken to an unknown destination and then to the Kinshasa Penal and Rehabilitation Centre at night. Consequently, the Special Rapporteur did not meet with them either in the Circo or in the prison. However, when he interviewed them several days later, the prisoners told him that they had been registered, and that would seem to imply that the police detention facility kept at least two registers, a practice that is entirely incompatible with international standards.[13] DEMIAP officials did not want to show the Special Rapporteur the prison register or tell him how many prisoners were kept there (the figure 220 was cited, but, during the morning, 55 were released "because Garretón was coming"(sic)) and he was denied access to the Memling, Inter and Ouagadougou blocks.

83. In the Circo, ordinary prisoners, the only ones to whom the Special Rapporteur was given access, said that they did not receive food or visitors.

84. In the above-mentioned case of Masasu Ningada, it was confirmed that the Kinshasa Penal and Rehabilitation Centre contained mysterious "Block No. 11", where many detainees were held together, having been taken there at the time of their arrest in Lubumbashi. Access to the detainees is strictly prohibited; the name of the officer in charge of the facility is not revealed and torture is reportedly widespread and brutal there.

85. In other prisons, food is minimal (one meal a day); only five prisoners in any one block can visit the clinic. According to VSV, prisoners in the central prison in Mbuji Mayi looked like "living skeletons" since the State no longer provides any funds. Abuses are so widespread that the Minister of Justice had to issue Circular No. 002 of 9 March 2000 setting out the legal and public information requirements for prisons and places of detention and the periods during which accused persons can be held at the disposal of the courts. None of those provisions is implemented, however.

Right to security of person

86. The Special Rapporteur has received many complaints of infringements of this right occasioned by the impunity enjoyed by the military and the police. Incidents such as the detention or beating of an individual because he was seen with a person who looked like a Tutsi or in order to rob him of money (perpetrated by soldiers) or the beating of a traditional chief for having attended a meeting in Stockholm, etc., would seem to reflect a situation in which fear of the army or the police is prevalent.

Right to enter and leave the country

87. The Government is very much afraid of having members of the opposition leave the country and thus often confiscates their passports and airline tickets. Similar problems affect journalists, priests and human rights activists. Representatives of civil society were prevented from travelling to Benin for the preparatory meeting on the national dialogue.

Right to due process

88. The lack of independence of the judiciary, referred to in Commission on Human Rights resolution 2000/42 (and exemplified by the dismissal of 315 judges in 1998, most of whom were from Kasai, Bandundu and Bas Congo and replaced chiefly by persons from Katanga, a problem that has not yet been solved), has gone unchanged. Another incident that reveals the extent to which justice is held hostage was the holding of the Chief Public Prosecutor of the State Security Court and the Attorney-General for 30 days for refusing to approve a raid on the Belgian Embassy.

89. Criticisms of the Military Court regarding procedural irregularities (summary judgements, sole jurisdiction, etc.) are still absolutely valid.[14] Detainees are held for long periods of time awaiting trial. Major political leaders and journalists who are detained are charged with the crime of "betraying the homeland in time of war" for the merest expressions of dissidence (Nicolas Katako, Catherine Nzuzi, Kaheze Vinalu and others).

90. Internal conflicts in the Military Court have resulted in detentions, prosecutions and attacks on its members: on 18 October, Commander German Ndaba Meya, deputy prosecutor in the Military Court, and police inspector Commander Ambroise Kusa were arrested during a plenary session of the Court in front of the public, the accused and lawyers, by order of the

Military Prosecutor, Lieutenant-Colonel Charles Alamba Mongako, for having brought an accusation against him. They were released and forced to go into exile. The question being asked in judicial circles is what can happen to ordinary citizens if such steps can be taken against such high-ranking judges.

91. Owing to the lack of guarantees, the 15 attorneys defending one of the country's heroes of independence refused, with his client's agreement, to defend him and he was sentenced to four years' hard labour.

Freedom of expression and opinion

92. This is another of the most vulnerable rights in Government-controlled areas. The Special Rapporteur has transmitted communications regarding 35 detained journalists who were tried and/or convicted by the Military Court or frightened away from practising their profession. Mobutu's draconian laws are still in full force. The Vice-Minister of Information has justified this by saying that "we cannot tolerate traitors" and the President has said that "the law must be obeyed". The main private television station was confiscated in March. The Special Rapporteur noted that, during his interviews with authorities, the only media present were the official media, despite the existence of private newspapers and radio stations. Independent media have no access to the authorities. Since Minister of Communication Sakombi, who held the same post under Mobutu, took office in September, a broad campaign has been waged to discredit the independent press.

93. Perhaps the best example of the state of freedom of expression and opinion is a RTNC editorial about the newspaper Le Phare which appeared in mid-November: the newspaper is an "enemy of the Congolese people" and has two options: "supporting the Government of National Security in its policy of national reconstruction or returning to the ranks of the enemies of the people".

94. The first step taken by the new Minister of Information upon assuming his post on 14 September was to suspend the operations of six radio stations and four television channels. On 14 October, the television stations were authorized to operate under government supervision with heavy censorship. RTKM journalists were prevented by the Rapid Intervention Police from entering their offices at the end of October for no apparent reason. The next day, the editors of Le Phare, Le Potentiel, La Tempête des Tropiques and La Tribune were summoned to the National Information Agency and warned to stop their coverage of the war. The publishers of independent newspapers received a similar summons on 30 November.

95. Although some private newspapers and radio and television stations still exist in Kinshasa, the verdict is unequivocal: there is no freedom of expression in the Democratic Republic of the Congo; the Congolese people does not exercise its right to be informed.[15]

Freedom of association

96. Political parties. The situation of political parties was discussed in paragraph 51. In addition, parties are no longer allowed to issue public statements and any violation of this ban is punished. The parties most seriously affected have been PALU, FONUS, PDSC, ADANER, MNCL/L, CODEP and UDC, although they are by no means the only ones.

97. Non-governmental organizations. NGOs, whether working with human rights or with development, suffer similar treatment. To begin with, the legislation declaring all such organizations illegal remains in force, although it has been brought into line with Decree-Law No. 195 of 1999, which requires NGOs to reregister on unacceptable terms. Some organizations, like ASADHO, are still shut down and none of the ministers interviewed appeared willing to reopen them. The organizations most affected have been VSV, CNONGD, ISH-SIDH and SCEPDHO (see para. 18).

98. The Special Rapporteur has brought three cases of infringement of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms to the attention of the Special Representative of the Secretary-General, Ms. Hina Jilani.

Economic, social and cultural rights

99. Right to work. Public employees, except for some in Kinshasa, have not been paid for months. Trade union leaders who protest against this are persecuted and accused of endangering State security (the National Contributions Union, OFIDA and others). Galloping inflation has diminished much of the purchasing power of private-sector salaries, affecting the population's living standards.

100. Right to health. Serious epidemics have occurred, with no relief possible because the war consumes a large portion of the country's income (see para. 40).

Situation of women

101. The situation of women remained unchanged in 2000. The employment and education situation described in earlier reports has deteriorated even further as a result of the war.

102. Women have an 8 per cent rate of infection with the human immunodeficiency virus (HIV) owing to poverty, according to some sources. In the past year alone, some 20,000 new cases have been reported. This tragedy is caused not only by a lack of education, but also, and especially, by sexual contact, often under duress, with Rwandan and Ugandan soldiers, whose countries have a high rate of infection with acquired immunodeficiency syndrome (AIDS).

103. Even though women are included in the Cabinet, the Government practises discrimination. Women's organizations have lost their voice to a parastatal group known as the Regroupement des femmes congolaises (REFECO); in addition, women human rights activists have been arrested (Jeanine Mukanirwa was arrested in December). Only 24 of the 300 members appointed to the Constituent and Legislative Assembly are women.

Situation of children

104. The cities are swarming with thousands of street children known as shégué. While this is not a new phenomenon, it has increased as a result of the war and the loss of parents. There are cases of murder, such as the well-known case of "little Ndingari", who was killed by a police officer in the Kinshasa market for no reason at all.

105. The war and the resulting high cost of living have also affected children's enjoyment of the right to education, doing irreparable harm to many children. Fifteen per cent of all children in Kinshasa are malnourished, but the rate is as high as 30 per cent in rural areas. Other violations include child labour in inhumane conditions in the diamond mines.

106. On a more positive note, Decree-Law No. 66 of 9 June 2000 on the demobilization of children and other vulnerable groups established a commission for demobilization and reintegration.

Freedom of conscience and religion

107. In his preliminary report to the General Assembly, the Special Rapporteur dealt with this topic for the first time, owing to disturbing events that had taken place both in the eastern part of the country and in Government-controlled territory. The Government views religious congregations as enemies allied with the rebels or aggressors. Peace messages are misinterpreted and the proclamation of freedoms and justice is considered to be subversive.

108. The Catholic Bishop of Manono was prevented from returning to his diocese after travelling to Kinshasa to attend the Assembly of the Conference of Bishops in July and Catholic priests were arrested in January. Presbyterian ministers were arrested and tortured in March. The Ubangi-Mongola Evangelical Community, the Bundi dia Kongo sect and the Siani and Unification/Cabinda congregations have also suffered repression.

VI. HUMAN RIGHTS VIOLATIONS COMMITTED IN TERRITORY OCCUPIED BY RCD AND MLC[16]

A. In RCD-controlled territory

Right to Life

109. This is the most frequently violated right in territory under RCD control, particularly by the so-called Goma faction, which is named after its headquarters.

110. Death penalty. In previous reports, the Special Rapporteur had welcomed the fact that RCD did not apply the death penalty.[17] However, on 17 March, the Conseil de guerre opérationnel held two trials within 24 hours; the accused was a corporal, who was executed on the spot; three other persons who were condemned to death in July were taken from the prison and never returned. Two more persons accused of deserting were executed in July, as were three others in September. All the trials were extremely summary in nature.

111. Political murders. Soldiers identified as "Banyamulenge", "Rwandan", "Ugandan" and "Burundian" have committed countless murders of persons suspected of being Mai-Mai or Interahamwe. The victims have included priests (Father Isidore Munyanshongere in January, a priest from Muhimba in April and a Kasuya seminarian in May), Protestant ministers, Baptists (in Vuatsinge in February), a pastor from the New Apostolic Church (November 1999), traditional chiefs and peaceful citizens. An example of such brutality was the killing of three youths by Burundian soldiers simply because they bore tatoos, thereby giving the impression that they were members of the Mai-Mai.

112. Death by torture. All the accounts received by the Special Rapporteur stress the frequency and especially the cruelty of torture by Rwandan and RCD soldiers. One person was arrested and tortured to death in Kiwandja, North Kivu, in March for having engaged in political activities, while Kakule Gabriel, a Congolese citizen, was arrested and tortured in Beni by Ugandan soldiers in September. He was scalded with boiling water, whipped, crucified and humiliated, and died of his injuries. All of this was carried out in public and was meant to show what would be done to anyone who collaborated with the Mai-Mai. Both incidents are still unpunished.

Right to physical and psychological integrity

113. The police stations known as "Chien méchant" ("Vicious Dog") and "Bureau II" have been identified as the main centres of torture in Goma and sources say that they are administered by "Rwandan soldiers". It is claimed that there are Congolese among the victims, but also Rwandans transferred from Rwanda. In Kisangani and Bunia, the main complaints throughout the year were directed at "Ugandan" soldiers. The victims are chiefly persons suspected of being Mai-Mai or Interahamwe. Representatives of OHCHR in Goma can visit prisons and other detention centres. The Special Rapporteur visited the Sixth Brigade detention centre in Bukavu and confirmed that some prisoners were taken away to unidentified destinations moments before his arrival. In addition, many prisoners were not accounted for in the prison records.

Right to liberty of person

114. Arbitrary detention. Human rights defenders, leaders of civil society, journalists and members of the clergy have been consistently deprived of their freedom and are constantly at risk of being detained again. Some arrests are repressive in nature: they are intended to suppress activities that are lawful in a democratic society, such as dissidence, criticism, education, culture and freedom of conscience. Others are intended to be preventive: persons suspected of not supporting the RCD authorities are detained because of acts they might commit, as occurred prior to the general strikes in Ngoma, Bukavu and elsewhere. Resigning from RCD carries with it the certainty of arrest. The same thing happens in territory occupied by RCD/Bunia, where two high-ranking leaders of RCD/ML were detained and tortured near Bunia in July.

115. On 12 September, Ugandan soldiers from Butembo issued radio broadcasts threatening to detain any member of the opposition considered to be either Mai-Mai or a supporter of another faction of RCD/ML.

116. Arbitrary detention in Rwanda and Uganda. The Special Rapporteur learned of two cases of individuals who had not committed any illegal act in Rwanda or Uganda, but had been detained in those countries. One case concerned Lusambo wa Karume, the Dean of the Bukavu Bar Association, and his brother, Dr. Safari wa Karume, who were on their way to Nairobi for health reasons. Upon entering Rwanda, they were arrested and taken to jail, where they remained deprived of their liberty for several days at the request of RCD authorities. Such "repression without borders" should be brought to the attention of the Commission on Human Rights. A similar case involved Bruno Bahati, who was detained in Ugandan territory.

117. Deportations to Rwanda and Uganda. The RCD authorities deny that anyone is deported. In March, while the Commission on Human Rights was meeting, they explained to the Special Rapporteur that, at most, the persons in question were prisoners of war. In reality, such events occur much more frequently under RCD/Bunia (deportation of Sylvain Mudimbi Masudi, who was detained in Beni and transferred to Uganda when he returned from the Commission on Human Rights session in Geneva) than under RCD/Goma. In any case, the Special Rapporteur wishes to emphasize that, during 2000, he learned of several cases of human rights defenders and others (traders) who were detained in Congolese territory and taken to Katuna, Rwanda, or to Uganda. What is more serious still, the Security Council has confirmed that Congolese children have been recruited by Ugandan soldiers in Butembo, Bunia and Beni and sent to Uganda where they are presumably conscripted into the army.

118. Deportation is particularly serious when it involves the forcible repatriation of Rwandan and Burundian refugees. Such acts are expressly prohibited by article 33 of the Convention relating to the Status of Refugees. Such acts of refoulement have been on the rise since the Governor of South Kivu announced that a census would be taken so that refugees could then be expelled, adding that anyone who sheltered or assisted refugees would be considered to be Interahamwe.

119. Internal deportation. Another curtailment of freedom has been forced internal exile or deportation. The best known and most dramatic case was that of the Archbishop of Bukavu, Msgr. Emmanuel Kataliko, who was detained on 12 February 2000 in Goma while returning to his diocese from Kinshasa, where he had participated in a meeting of the Conference of Bishops Standing Committee. It was later learned that he had been sent to Butembo, his birthplace and the town where he had been Bishop. He was held to be responsible for the general strike of 31 January, which allegedly had its origin in his 1999 Christmas message. In that message, he had called for justice for the abuses committed by the Rwandan forces, respect for human dignity and the withdrawal of foreign troops. Those remarks were considered to be incitement to ethnic hatred. RCD Commander Ondekane said that he "was preparing a genocide". The Archbishop's portrait was removed from all secondary schools. He was ultimately released in September and died in Rome on 3 October (see paras. 18 and 64). Similarly, four civil society activists were detained and exiled to Kisangani (see paras. 18 and 45).

Right to enter and leave the country

120. RCD has drawn up lists of persons, including individuals linked to human rights organizations, who have been prevented from leaving RCD-controlled territory; many cannot even leave Kivu or Kisangani. In early March, there were reports of an ordinance preventing all

Congolese from travelling to countries other than Rwanda or Burundi without official permission, which is generally denied. Protestant clergy, for example, could not travel to a conference in Nairobi in 1999.

Right to security of person

121. The abuses committed by soldiers considered to be "aggressors" keep the population in a state of great insecurity. As the Special Rapporteur has said in earlier reports, an atmosphere of terror prevails in the occupied zone. Entire families are shot, religious convents are looted (the Holy Family Convent in Nyakavogo was plundered because people were speaking Swahili there); international and national humanitarian organizations are frequently robbed and their property is never returned.

Right to due process

122. Most of those detained are never tried, but are kept in police facilities or torture centres for days or months. Their release is at the discretion of the authorities. The prisoners visited in the Sixth Brigade Facility in Bukavu had not been tried.

123. The most serious breaches of the norms of due process stem from the guarantee of impunity for the massacres, murders and torture inflicted on persons accused of inciting hatred. The belated "prosecution" of the person responsible for the death of 15 women in Mwenga, who stands out because of his ferocity, ended up with his flight. The fact that those allegedly responsible for the flight are being prosecuted in no way justifies the action. Another example of impunity occurred on 4 September, when a person arrested on a court order was arbitrarily released, giving rise to a protest on the part of the judges of the court of major jurisdiction.

Freedom of expression and opinion

124. The Special Rapporteur can only repeat what he has said in his preceding report (E/CN.4/2000/42, paras. 91 to 93). There is no freedom of expression; there are no daily newspapers; Radio Maendeleo was returned to its operators, but has been prohibited from broadcasting political opinions and news; RTNC/Goma shut down a Scout programme for having read the Universal Declaration of Human Rights. Independent journalists who issue information leaflets are detained and threatened. One was even arrested for asking the RCD Chairman "difficult questions", while another was arrested for maintaining that Kabila should have a place in the inter-Congolese dialogue.

125. In flagrant violation of articles 29 and 30 of the Universal Declaration of Human Rights and article 20 of the International Covenant on Civil and Political Rights, radio stations in Kisangani vehemently incited racial hatred while Rwandans and Ugandans were sharing power: Liberté targeted Rwandans, while RTNC/Rebelle targeted Ugandans.

Freedom of association

126. Apart from RCD, there are no political parties. In May, to impress the Facilitator, Sir Ketumile Masire, the existence of the Front uni pour l'opposition non armée (FROUNAR)

was reported, although this party was nothing more than a group of RCD militants. All political activity is prohibited and punished. An attempt to form an independent political party, the Mouvement patriotique congolais (MPC), ended with the detention and expulsion from RCD-controlled territory of its would-be founder, N'Denga Jacques.

127. Human rights organizations. In response to the Special Rapporteur's preceding report, RCD claimed that it was established beyond a doubt that the NGOs in South Kivu were operating with financial support from the Kabila Government and that they were the sources of the Special Rapporteur's information. When the Special Rapporteur sought confirmation of this surprising claim, no reply was forthcoming. In fact, NGOs are severely persecuted, always on the charge of inciting ethnic hatred, yet not a shred of evidence has been presented in this regard. Many defenders have been imprisoned, tortured and threatened and many have had to seek refuge (such as CRONGD, PAIF, CEDAC, the Lotus Group, SOPROP and others).

128. Of particular significance was the reaction of the RCD Security Commissar, when he found himself compelled by a strong international campaign to release the human rights defenders who had been detained in October for having met with the United Nations High Commissioner for Human Rights (see para. 18); he claimed that it had been a mistake to detain them instead of making them disappear.

Freedom of assembly

129. The Congolese people has peacefully demonstrated against foreign occupation on many occasions. The strikes known as "ville morte" are the most common form of protest (see para. 68). All these demonstrations have entailed deaths, injuries and detentions. Excessive violence is used to squelch any criticism, with absolutely no value placed on the lives of the Congolese. The demonstrations in Bukavu on 29 August to protest the effort to disrupt the fair organized by a brewery were countered with particularly violent measures that left eight dead; the detention of four civil society leaders who were linked, without any proof, to that event was also extremely violent.

Economic, social and cultural rights

130. The extremely serious situation throughout the country is particularly disturbing in the east: malnutrition in Kisangani reportedly affects 30 per cent of all adults and 60 per cent of children. Civil servants remain unpaid. The health care system is destroyed and families usually take turns eating. Poverty is on the rise owing to the insecurity generated by the looting by Ugandan and Rwandan soldiers.

131. Secondary school students have been sent home because their parents, who have not been paid, are unable to pay school fees.

Situation of women

132. The best known case of an attack on women is the incident that took place at Mwenga, where 15 women were buried alive after having been burned. Other cases include the detention of feminist activists (PAIF); the rape and beating of secondary school students who were

detained for insisting that their examinations were valid in the Democratic Republic of the Congo; and repeated instances of rape of women detainees, particularly in "Chien méchant". Those who resist are generally beaten. Rapes by Ugandan soldiers have also been reported in Butembo, especially in Kihinga, Ruenda, Isango, Mutiri, Mukuna and Butalirya districts.

Situation of children

133. As in the Democratic Republic of the Congo, RCD is establishing a commission for the demobilization of child soldiers. However, MONUC has noted that the level of recruitment of children is much higher in the east than in the areas under Kabila. This is the case, for example, in Nyaleke, near Beni, where Ugandan soldiers are training 10-year-old children. What is worse, Congolese children are being deported to Uganda (see para. 117 above).

134. In flagrant violation of article 37 of the Convention on the Rights of the Child, minor children of all ages who are suspected of offences are deprived of their liberty in ordinary prisons, including security services prisons (Eric Mburanumwe Haguna, 12 years old, has been held in Bureau II in Sake, North Kivu, since 14 November).

Freedom of conscience and religion

135. The persecution in RCD territory of Catholic and Protestant churches because of their messages of peace has been particularly serious. One Catholic bishop said that the only thing that united Rwandans and Ugandans was their hatred of the Catholic Church, but this also applies to other Christian churches and to religious organizations in general. In the east, the majority Catholic Church has been the most persecuted: priests have been murdered, the Archbishop of Bukavu was banished, there have been attacks on convents and parish houses and so forth. On 6 February, APR soldiers killed the pastor of a Protestant church (Mumboleo) in Kilambo, North Kivu, and there have been many other similar incidents.

B. In MLC-controlled territory

136. There is minimal information on the region, since there is very little civic activity. There are very few non-governmental organizations and newspapers. The Special Rapporteur spent a few hours visiting the small village of Gbadolite, but was unable to visit other towns where there were more victims of human rights violations.

VII. VIOLATIONS OF INTERNATIONAL HUMANITARIAN LAW

A. Violations by the Government, allies and related groups

137. The Government is responsible for the bombing of the Libenge hospital on 27 July, the bombing of Gemena, Boma (14 killed on 22 October), and other bombings that affected the civilian population. It has also shot down aircraft carrying poliomyelitis vaccine (war against MLC).

138. The Government's support for the Mai-Mai makes it responsible for the offences committed by the latter. While they generally attack Rwandan and RCD soldiers, they have also

committed violence against civilians suspected of collaborating with those they regard as "the enemy". The high degree of popularity they enjoy among the Congolese does not absolve them of responsibility. Incidents involving brutality include those that occurred at Lubero in April and at Nyabibwe, Numbi (50 dead) and Kihuha in July.

139. The Interahamwe and former FAR combatants are responsible for attacks on the civilian population in Loashi, Luhinzi, Rutshuru, Kione, Ngesha, Kahuzi-Biega (nine gorilla researchers killed), Nyabiungu (seven persons killed on 13 October) and Munigi (nine persons killed on 1 November). It is common for women and girls to be raped in the villages attacked.

140. It should be noted that freed Rwandan prisoners who had been held in Kinshasa acknowledged that they had been well treated while held prisoner by the Zimbabweans, to the extent that, as they told the Special Rapporteur, at least four of them preferred to remain in Kinshasa rather than return to their country.

B. Violations by RCD, RCD/ML, MLC and allied foreign military forces

141. The population does not distinguish among the various components of RCD, which it identifies as Rwandan soldiers or Banyamulenge.

142. Any attack by members of the Interahamwe, Mai-Mai or similar groups is met with violence that is utterly disproportionate: innocent civilians having nothing to do with the conflict are massacred and the death toll is high. Mere suspicion of sympathy with the Mai-Mai provokes reprisals against the civilian population: Ngenge (November 1999), Kalehe (December 1999, 23 dead), Kilambo (February, 60 dead), Katogota (May, between 40 and 300 dead), Kamanyola, Lurbarika, Luberezi, Cidaho, Uvira, Shabunda, Lusenda-Lubumba (July, 150 dead), Lulingu (August, 300 to 700 dead, including children, women and many disabled persons) and Butembo (11 September, 24 civilians killed).

143. Church-connected sites, particularly health centres, have been special targets, in grave violation of articles 18, 57 and 58 of the fourth Geneva Convention of 12 August 1949: the Burhale parish house; the Mubumbabo health centre (March); the parish house and maternity clinic at Ciherano (April); the parish house and convent at Kabare and the Kabare hospital (May-June); the Murhesa seminary and parish house (June); the Lwiro health centre (July); the Luhwinja health centre and parish house (July); the Kaniola parish house and health centre (August); the Mubumbano parish house in Walungu (2-3 October 2000); and so forth.

144. Particularly reprehensible is the treatment of prisoners by Rwandan soldiers. The Special Rapporteur visited one Congolese soldier taken prisoner in Katanga who had been beaten, tortured, castrated and abandoned, a practice condemned earlier by the Special Rapporteur (see E/CN.4/2000/42, para. 117). The Special Rapporteur was surprised by the heartlessness and cruelty displayed by the Second Vice-Chairman of RCD, Moïse Nyarugabu, when transmitting the case. Without any proof, he said, "You don't know how many he castrated".

145. On other occasions, Rwandan soldiers, when attacking hospitals, have taken wounded individuals suspected of being Mai-Mai out in order to shoot them in the street, as they did in Lubero on 25 August.

146. Humanitarian assistance has been intercepted and diverted to Congolese Tutsi repatriated from Rwanda.

147. Burundian soldiers are accused of killing nine civilians in Sebele in retaliation for a Mai-Mai attack in April.

148. Ugandan troops have also committed massacres, such as the one that took place in a restaurant in Kirima on 28 August, when the owners and 10 customers were killed.

149. Extremely serious incidents occurred during the Ugandan-Rwandan fighting in Kisangani; in addition, combatants from both sides have placed anti-tank and anti-personnel mines around that city and these will wreak enormous devastation among the civilian population in the future.

150. Ugandan soldiers, working together with Hema, have also committed atrocities against civilians (in Libi, for example, where nine persons were killed in March) and taken civilians, including children (Walendu Tatsi), prisoner.

151. Ugandan troops also shelled a boat in which women and children were fleeing the war, killing some 30 persons; no assistance was given to them.

152. Proportionally, the Ugandan forces are more regular in the recruitment of children.

VIII. CONCLUSIONS AND RECOMMENDATIONS

A. Conclusions

153. The catastrophe in Central Africa. Central Africa is a region of great riches, but its inhabitants are living in extreme poverty. The dreadful legacy of slavery; the arbitrary partition of borders without regard for territories and limits accepted by the original inhabitants; colonization, with the lack of education and the looting of natural resources it left behind; and the history of unscrupulous dictators - always with support from abroad, however, whether from the former European metropolitan Power or from the great cold war Powers - are the cause of the prices the peoples of Africa now have to pay.

154. Of the nine armed conflicts now going on in the Democratic Republic of the Congo, only three involve inter-Congolese disputes: the Government against RCD (various factions); the Government against MLC; and Balendu against Bahema. And all three were triggered by the participation of invading forces. This is particularly significant because, although the territory of the Democratic Republic of the Congo has nearly 400 ethnic groups and 50 million inhabitants, co-existence has historically been peaceful. No one denies that there have always been disputes about land problems, but these were always settled through action by traditional chiefs (in the case, for example, of conflicts between Balendu and Bahema in 1887, 1911, 1923 and 1966). Only incitement by Ugandan soldiers has dragged these two ethnic groups into someone else's violence.

155. The other disputes which brought Congolese into confrontation with one another in the past were all politically motivated: Baluba and Balulua in 1960, following colonial incitement against the inhabitants of the region where Lumumba lived; Katangans and Kasais, following Mobutu-backed incitement against the opposition leader.

156. Seven national armies and many armed groups are taking part in the main war between the Democratic Republic of the Congo and Uganda, Rwanda and Burundi, and this justifies calling it the first world war in Africa. Extreme poverty existed before the current wars, but it has reached dramatic levels and become even worse because of them. The Congolese people does not understand why those responsible for its problems, who are members of the international community, do not come to its assistance now. It is true, however, that the Congolese must also recognize that it is their own responsibility to make peace and establish the democratic institutions on which peace is based.

157. The parties, their allies, other African countries, the great Powers, OAU and the United Nations have failed to find peace. The Congolese believe that this is the result of three factors: first, an unfair view of the war, in which the interests of aggressors and aggressed are treated equally and, in some cases, the former are treated more equally than the latter; secondly, economic and political interests that are different from their own; and, thirdly, the fact that legitimate and indispensable demands for democracy and respect for human rights are addressed only to the Democratic Republic of the Congo and not to the other actors, thereby ensuring that, if this war ends, another will follow. Since none of the endless wars that took place in the twentieth century were between two democratic regimes, it must be concluded that democracy must be demanded equally emphatically from all actors and that no peace is possible in the Democratic Republic of the Congo without a regional and definitive dimension. There are conflicts and historical ambitions that require long-term solutions based on respect for principles on which there can be no disagreement: respect for the human rights of all Congolese; justice for the persons responsible for the crimes against humanity that have been committed; and respect for the borders inherited from the colonial era.

158. The armed conflict. None of the parties to the nine conflicts, whether internal, internalized internal or international, is fully respecting the Lusaka Ceasefire Agreement, although there has been no significant change in their positions. The Congolese consider the Rwandan, Ugandan and Burundian armies to be "aggressors" rather than as providing support to the rebels. While the activities of the Interahamwe and Mai-Mai are the primary cause of the violence, it is the armies of Rwanda, Uganda, Burundi and RCD which are causing the greatest damage and which have once again committed terrible massacres of the civilian population. In addition, Rwanda and Uganda have expanded their own conflicts into Congolese territory, causing death and destruction on neighbouring soil.

159. The occupation of the territory of the Democratic Republic of the Congo. Despite the clear meaning of the fourth preambular paragraph of Security Council resolution 1304 (2000), an ominous doubt has been taking shape: whether it is realistic to believe that the indivisibility of Congolese territory is still possible. Even asking the question is unacceptable because there can be no justification for the conquest or partition of a country by foreign forces. Signs by the international community in this regard should be even more clear-cut and given repeatedly.

160. The sense of terror in RCD-occupied territories (although not in MLC-controlled territory) and the entire country's humiliation are still dramatically present.

161. Immediate effects of the Special Rapporteur's visit. As during all his missions since 1994, a few days before, and particularly during, his visit to the country, prisoners were released or transferred from illegal detention centres to public jails; judicial proceedings that should have begun months previously were opened; sick prisoners were given better medical care and journalists were given greater access to information sources. The same thing happened during the High Commissioner's visit in October, both in Government- and RCD-controlled territory. In Bukavu, however, leaders of civil society who spoke with the High Commissioner were punished after her departure.

162. Violations of international humanitarian law. The most serious incidents are the massacres of civilians by RCD and Rwandan forces and attacks on civilians during the Rwandan-Ugandan wars. Prisoners have been mutilated, beaten and castrated. The Government, for its part, is responsible for the crimes committed by the Mai-Mai against soldiers at the edges of the conflict and against civilian populations which allegedly support the Rwandan forces. It is also responsible for its bombing of civilian populations in the north.

163. Human rights. In Government-controlled territory, the rights most affected are political rights (participation, assembly, association and freedom of expression). In RCD and RCD/ML-controlled territory, the rights most often violated are basic rights (life and physical integrity) without prejudice to political freedom. There is insufficient information on MLC-controlled territory, although Gbadolite does not live in the same climate of terror as Goma, Bukavu and Kisangani.

164. Right to democracy. There are no expectations of democracy in the Democratic Republic of the Congo. The hopes that the people placed in its Sovereign National Conference in 1991-1992 were dashed by Mobutu and, later, by AFDL, President Kabila, RCD/Goma, RCD/ML and MLC. None of them believes in democracy and they do not consider it necessary, useful or beneficial. None agrees to share even a small part of their absolute powers over the lives, freedom and future of the Congolese people. The Government rejects any dialogue with the national democratic opposition; it persecutes political parties, continues to declare them illegal and punishes their leaders and activists. It rejects the mediator whom it had previously accepted. It invents anti-democratic institutions and holds the opinion of its people in contempt. In the occupied territories, there is only one party, either RCD or MLC. Other parties only appear to exist. Those not in sympathy with RCD have ceased all activities and their leaders have chosen exile. MLC is the only party in the territory it controls.

165. Human rights advocates. They are persecuted by both sides, since one considers them to be "traitors to the country" or "in league with the rebels" and the other considers them to be "in Kabila's pay", "Interahamwe or Mai-Mai collaborators" or "responsible for genocide".

166. Death penalty. The Government maintains it as in past years, despite its promises to its people and the international community. Executions took place up until the day this report was completed and many people are awaiting execution or a presidential pardon. RCD had never applied it before, but did so on several occasions in 2000.

167. Liberty of person. It is not guaranteed and there are many political prisoners on both sides. The Kinshasa amnesty was encouraging, but it did not affect all prisoners and the politically-motivated imprisonment of ministers, ambassadors and other high-level officials and persons who had been released continued.

168. Freedom of expression. There is none. In Government-controlled territory, there are a few newspapers with a limited circulation and journalists are regularly harassed. At least 35 journalists were detained or arrested in Government-controlled territory. In RCD-controlled territory, there are no opposition newspapers and the few independent radio stations have been shut down, censored and prevented from broadcasting any news programmes other than the official ones. Journalists were also arrested and accused of working for Kinshasa.

169. Torture. Torture is practised by all parties and, in many instances, it has resulted in death. In the two territories, there are secret detention centres where people are tortured. However, the worst cruelty is that committed by Rwandan and Ugandan soldiers.

170. Right to due process. It is not respected by any of the parties. In the Democratic Republic of the Congo, the Military Court, which is the only court in which civilians, journalists and human rights advocates are tried, remains fully functional. All human rights violations continue to go totally unpunished. In RCD-controlled territory, the death penalty has been reinstituted through trials of the most summary nature in which no defence is admitted and impunity for the crimes and massacres committed by RCD soldiers and allies is a rule to which there are no exceptions.

171. Freedom of movement. In both Kinshasa and Goma, members of the opposition are prevented from leaving the country and even from movement within it. But the most serious issue is the deportation of Congolese citizens to Rwanda and Uganda, where, in many cases, all traces of them are lost.

172. Freedom of conscience. In both sectors, religious persecution has been a constant throughout the year. Bishops, priests and ministers have been arrested, tortured, expelled and murdered. The most emblematic case has been that of the Archbishop of Bukavu, who was expelled from his diocese by RCD. In the east, there have also been attacks on convents, parish churches and health centres run by members of religious orders.

173. Persons at risk. The Government, with international assistance, has continued to provide protection to people who look like Tutsi in order to prevent reprisals against them, thereby disproving accusations of genocide. In October, however, the Government ordered detentions in Mbuji Mayi on ethnic grounds.

174. Women and children. The situation continues to worsen. The Democratic Republic of the Congo and RCD have taken steps to demobilize children, but neither MLC or the Ugandan troops have done so.

B. Recommendations

175. To the parties in the wars: (a) as long as a new peace plan is not being discussed, the parties must comply with what was agreed in Lusaka in 1999; (b) in any event, adjustments must be made to an agreement which, in one year and a half, has been constantly breached by all the parties, considering the provisions of Security Council resolution 1304 (2000); (c) the Government cannot continue to use a kind of double language with MONUC and must cooperate with it, without setting up new and ridiculous obstacles; (d) an end must be put to all forms of impunity for war crimes and crimes against humanity.

176. To the Kinshasa Government:

(a) With regard to democracy, the Government must (i) establish the inter-Congolese dialogue, as provided for in the Lusaka Agreement, without looking for excuses or inventing institutions unrelated to the desires and aspirations of its people, which is calling for the type of democracy that democrats recognize as such. The abolition of ACL-PT is essential; (ii) accept the fact that it cannot maintain its absolute powers; (iii) stop regarding any opponent as a "traitor" since, as Montesquieu said, "When a ruler does not define what treason is, he becomes a tyrant"; (iv) repeal the freedom-killing provisions on political parties and non-governmental organizations, recognizing those that exist and allowing them to work, without threats or retaliation;

(b) With regard to human rights: (i) abolish the death penalty and commute death sentences; (ii) eliminate the Military Court; (iii) release all political prisoners and journalists unconditionally, guaranteeing them the fullest possible freedom of action; (iv) eliminate all forms of pressure or censorship of the press and open up the public media to the opposition; (v) cease all cooperation with the Mai-Mai and Interahamwe; (vi) speed up the demobilization of child soldiers; (vii) restore relations with other States, intergovernmental organizations, the United Nations and OAU and attend the assemblies and meetings organized by them, since none of them is an enemy of the Democratic Republic of the Congo and all are trying to help it; (viii) extend the authorization for OHCHR to visit all places of detention, not only jails; (ix) implement the human rights plan of action; (x) give international human rights instruments precedence over internal law and honour the commitments made under them.

177. To RCD and other rebel groups: (i) put an end to the climate of terror prevailing in the territories controlled by RCD factions; (ii) cease all cooperation with foreign armies; (iii) avoid any act implying the exercise of sovereignty over foreign armies (flying of flags, partition or creation of provinces, town-twinning, sale of public property, etc.); (iv) recognize the truth and refrain from giving fictitious accounts of atrocities committed by their troops and foreign allies and conduct objective investigations of allegations; (v) refrain from recruiting Congolese to attack Congolese (art. 51, fourth Geneva Convention); (vi) release political prisoners; (vii) suspend all deportations of Congolese and persons recognized as refugees in Congolese territory and demand that their foreign allies return deported Congolese to the country; (viii) solemnly undertake not to carry out the death penalty; (ix) recognize and permit the legitimate right to dissent, ceasing to interpret all acts of opposition as alleged incitement to

ethnic hatred; (x) permit organizations of civil society, particularly human rights organizations, to function freely; and (xi) demobilize child soldiers, especially Congolese child soldiers recruited by Uganda.

178. To foreign armies occupying Congolese territory: (i) implement the Lusaka Agreement and, in particular, Security Council resolution 1304 (2000), which demands that they should withdraw immediately and prior to the withdrawal of the forces present at the Government's invitation; (ii) accept the fact that they have lost all respect in the eyes of the Congolese people and refrain from all reprisal; (iii) permit investigations of violations of human rights and international humanitarian law and, in particular, of the massacres that took place on 2 August 1998; (iv) provide immediate compensation to the victims of the incidents that occurred at Kisangani and in other parts of the Democratic Republic of the Congo; (v) return the Congolese property that has been taken from the country since 1998; (vi) refrain from enlisting young persons into their service to fight against their own people.

179. To organs of the United Nations. The Special Rapporteur welcomes the efforts made by the Secretary-General and his special representative for the peace process in the Democratic Republic of the Congo and his co-workers and formulates the following recommendations for organs of the United Nations: (i) continue to support the peace process in the Democratic Republic of the Congo and the inter-Congolese dialogue; (ii) demand the immediate withdrawal of the uninvited foreign troops; (iii) heed the words of the special rapporteurs on human rights in order to prevent the recurrence of the incident which was reported in the Carlsson report on the occasion of the genocide in Rwanda and which a special rapporteur of the Commission on Human Rights had predicted a year in advance without any action being taken. This recommendation is especially important in the light of the establishment of peacekeeping mechanisms. The use of the so-called "Arria formula" may be a good mechanism for this purpose; (iv) provide greater financial and logistical assistance to the mechanisms of the Commission on Human Rights and ensure that special rapporteurs are given assistance which shows how much importance the United Nations attaches to the implementation of human rights; (v) strengthen the productive and efficient work of the Office of the United Nations High Commissioner for Human Rights in the Democratic Republic of the Congo, authorizing the establishment of new offices in other parts of the territory under Government or rebel group control; (vi) establish an effective arms embargo on all countries involved in the Congolese conflict, starting with the countries which have violated the sovereignty and territorial integrity of the Democratic Republic of the Congo.

180. To other organs of the international community: (i) support the peace process, the inter-Congolese dialogue and the democratization process; and (ii) make their voices heard and their moral authority felt with regard to the massacres committed on Congolese soil.

Notes

[1] Whenever a date is given without a year, the year is assumed to be 2000.

[2] At the time of writing, subsistence allowances have not been paid for six missions, to Geneva, the Democratic Republic of the Congo, Addis Ababa and New York, since May. All the special rapporteurs are in a similar situation.

[3] The armies of the aggressors, Uganda, Rwanda and Burundi, and the armies of the Democratic Republic of the Congo and the countries that came to its aid in accordance with the Charter of the United Nations, Angola, Namibia, Zimbabwe and, until 26 May 1999, Chad.

[4] S/PRST/2000/20.

[5] The Mai-Mai guerrillas, originally from the Banande and Bahunde tribes, have enlisted thousands of young people from all ethnic groups who are opposed to what they refer to as "Rwandan aggression". See E/CN.4/1999/42, note 4.

[6] In his report contained in document E/CN.4/2000/42, the Special Rapporteur stated that "there is a general feeling throughout the country that the international community is not doing anything to end the conflict, but that, when that abstraction does do something, it is rejected for doing so" (para. 18). This reaction confirms this.

[7] Report of the Secretary-General contained in document S/2000/1156, dated 6 December.

[8] E/CN.4/1998/65, paras. 32-37; E/CN.4/1999/31, para. 17; E/CN.4/2000/42, paras. 32, 33 and 125.

[9] See, for example, the August statement by the Conference of Catholic Bishops.

[10] E/CN.4/2000/42, paras. 43-47, 125 and 133.

[11] See annex VII.

[12] In addition to the February amnesty, some 509 persons who had been sentenced for non-political offences by the ordinary court system were pardoned on 4 December.

[13] Standard Minimum Rules for the Treatment of Prisoners (Economic and Social Council resolutions 663 C (XXI) and 2076 (LXII)); Principle 12 of the Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment (General Assembly resolution 43/173, annex).

[14] See E/CN.4/1999/31, paras. 90, 91 and 137; and E/CN.4/2000/42, paras. 63, 122 and 137.

[15] It is worth noting that the sole sources of information to which the Congolese listen and the only ones that they believe are radio and television broadcasts from Europe, Canada and the United States of America.

[16] See annex VIII.

[17] E/CN.4/2000/42, para. 81.

Annex I

REPORTS AND RESOLUTIONS OF THE COMMISSION ON HUMAN RIGHTS AND THE GENERAL ASSEMBLY

1. Resolutions

Commission on Human Rights

1994/87, 1995/69, 1996/77, 1997/58, 1998/61, 1999/56, 2000/15

General Assembly

53/160, 54/179, 55/117

2. Reports

Commission on Human Rights

E/CN.4/1995/67, E/CN.4/1996/66, E/CN.4/1997/6 and Add.1 and 2, E/CN.4/1998/64, E/CN.4/1998/65, E/CN.4/1999/31, E/CN.4/2000/42, E/CN.4/2000/43

General Assembly

A/51/942, A/52/496, A/53/365, A/54/361, A/55/403

Annex II

TALKS HELD DURING THE MISSION TO NEW YORK (24-29 January 2000)

1. United Nations Secretariat

Office of the High Commissioner for Human Rights; Department of Political Affairs (DPA); Office for the Coordination of Humanitarian Affairs (OCHA); Department of Peacekeeping Operations (DPKO); Department of Public Information (DPI); Ambassador Kamel Morjane, Special Representative of the Secretary-General for the Democratic Republic of the Congo; Ambassador Bernadeu Dinka, Special Representative of the Secretary-General for the Great Lakes Region

2. Government delegations/Permanent Missions to the United Nations

Democratic Republic of the Congo (Minister of State for Foreign Affairs and Minister for Human Rights); United States of America (Permanent Representative, Ambassador to the Democratic Republic of the Congo); France (Permanent Representative); Belgium (Secretary-General, Ministry of Foreign Affairs); Botswana (Sir Ketumile Masire, Facilitator of the Inter-Congolese Dialogue); Portugal (Presidency of the European Union, Permanent Representative)

3. Congolese rebel movement

Congolese Rally for Democracy/Goma (Chief of the Department of Foreign Affairs)

4. Non-governmental organizations

Human Rights Watch; Amnesty International; International Committee of the Red Cross; San Egidio Community; International Centre for Human Rights and Democratic Development

Annex III

OFFICIALS, EMINENT PERSONS AND INSTITUTIONS WITH WHOM THE SPECIAL RAPPORTEUR MET AND PLACES HE VISITED DURING HIS MISSION TO THE DEMOCRATIC REPUBLIC OF THE CONGO (13-25 August 2000)

1. In Government-controlled territories

Government officials

President of the Republic, Minister of State for Foreign Affairs and International Cooperation; Minister for Human Rights; Attorney-General of the Republic; President of the Supreme Court of Justice; Prosecutor and President of the Military Court; Deputy Minister of Information; Secretary-General of the People's Power Committees

Other eminent persons and institutions

Special Representative of the Secretary-General for the Democratic Republic of the Congo and head of MONUC; members of the diplomatic corps accredited in the Democratic Republic of the Congo; representatives of United Nations agencies (Kinshasa, Goma, Bukavu, Kisangani)

Non-governmental organizations/civil society

Association des cadres pénitentiaires du Congo (ACPC); Association africaine de défense des droits de l'homme (ASADHO); Association Khyaganda; Association nationale pour la défense des droits des migrants et ceux de la femme (ANADDEM-F); Centre des droits de l'homme et du droit humanitaire international de Lubumbashi; Collectif d'action pour le développement des droits de l'homme (CADDHOM); Conseil national des organisations non-gouvernementales de développement (CNONGD); La Grande Vision; Fondation Espoir d'Afrique (CEDA); Institut Africain - CEDAF; Ligue des électeurs; Physicians for Human Rights; World Organization against Torture; Toges Noires; Solidarité pour la promotion et la paix (SOPROP); Voix des sans voix pour les droits de l'homme; Journalistes en danger (JED); Ligue des droits de la personne dans la région des Grands Lacs (LDGL); Observatoire national sur le tribalisme et les divisions ethniques (OTRIE); Union nationale des femmes; Conseil national des droits de l'homme en Islam (CONADHI); Comité des droits de l'homme maintenant; Les Amis de Nelson Mandela; Association des femmes magistrats (AFNAC); Comité pour la démocratie et les droits de l'homme; Œuvres sociales pour le développement; Avocats sans frontières; Collectif des jeunes solidaires du Congo Kinshasa (COJESKI); representatives of trade union organizations; former and serving judges; journalists; political leaders imprisoned in Kinshasa.

Political parties

Union pour la démocratie et le progrès social (UDPS); Collectif de l'opposition démocratique plurielle (CODEP); Republican Front; People's Movement for the Revolution (MPR)/Fait privé;

Forces novatrices pour l'union et la solidarité (FONUS); People's Power Committees; Democracy and Development Movement (MDD); Union de la gauche (UGC); Congolese Democratic Party (PDC)

Places visited

Kinshasa Penal and Rehabilitation Centre (CPRK)

Inspection de la police provinciale de Kinshasa (ex-Circo)

Prosecutor's Office jail, Tribunal de grande instance, Kinshasa/Gombe

National Social Security Institute (INSS), where detainees are held if they are considered to be at risk because of their membership of an ethnic group regarded as hostile by the population as a whole

2. In territory controlled by RCD/Goma

Officials

Second Vice-Chairman of RCD; heads of the Departments of Justice, Human Rights and Dispute Settlement, Security and Information, National Administration, Mobilization, Propaganda, Youth and Sports, Foreign Affairs and Cooperation; military judge; governors of South Kivu (Bukavu) and Orientale (Kisangani) provinces; members of the Human Rights Commission established by RCD

Non-governmental organizations/political parties

There are no political parties.

For security reasons, the list of non-governmental organizations met by the Special Rapporteur in the territories controlled by RCD and MLC is not published.

Places visited

Sixth Brigade jails in Bukavu; bombed areas in Kisangani

3. In territory controlled by MLC

Chairman of MLC; Secretary-General; most of the members of the MLC Executive Committee (national secretaries responsible for national administration and the civil service, foreign affairs, and information, relations with regional institutions, justice, mobilization, youth and sports, finance, economic affairs and portfolio, etc.); Attorney-General of the Republic

Annex IV

INTERNATIONAL INSTRUMENTS TO WHICH THE DEMOCRATIC REPUBLIC OF THE CONGO IS A PARTY

International Covenant on Economic, Social and Cultural Rights

International Covenant on Civil and Political Rights

International Convention on the Elimination of All Forms of Racial Discrimination

International Convention on the Suppression and Punishment of the Crime of Apartheid

Convention on the Prevention and Punishment of the Crime of Genocide

Convention on the Rights of the Child

Convention on the Elimination of All Forms of Discrimination against Women

Convention on the Political Rights of Women

Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery

Convention relating to the Status of Refugees and Protocol relating to the Status of Refugees

Geneva Conventions of 12 August 1949

Protocol I additional to the Geneva Conventions of 12 August 1949

Annex V

ARMED CONFLICTS TAKING PLACE IN THE TERRITORY OF THE DEMOCRATIC REPUBLIC OF THE CONGO

Government of the Democratic Republic of the Congo*/Congolese Rally for Democracy/Goma*, Congolese Rally for Democracy/Liberation Movement and Movement for the Liberation of the Congo*

Government of Rwanda/former Rwandan Armed Forces and Interahamwe

Government of Uganda/various armed opposition groups

Government of Burundi/Front pour la défense de la démocratie

Government of Angola/National Union for the Total Independence of Angola and Cabinda

Government of the Republic of the Congo/various armed opposition groups

Government of Rwanda/Government of Uganda

Conflicts between the Bahema and the Balendu

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* Groups mentioned in the Lusaka Peace Agreements.

Annex VI

IRREGULAR ARMED GROUPS DIRECTLY OR INDIRECTLY INVOLVED IN THE ARMED CONFLICT IN THE DEMOCRATIC REPUBLIC OF THE CONGO

Congolese Rally for Democracy (Rassemblement congolais pour la démocratie - RCD)

Former Rwandan Armed Forces (ex-FAR)

Interahamwe

Movement for the Liberation of the Congo (Mouvement de libération du Congo - MLC)

National Union for the Total Independence of Angola (UNITA)

Mai-Mai of South Kivu

Mai-Mai of North Kivu

Front pour la défense de la démocratie (FDD)

Lord's Resistance Army

Sudan People's Liberation Army (SPLA)

Simba Brigade

Union des nationalistes républicains pour la libération (UNAREL)

Mouvement pour la sécurité, la paix et le développement (MSPD)

Former Ugandan National Army (FUNA)

West Nile Bank Front (WNBF)

National Army for the Liberation of Uganda (NALU)

Allied Democratic Forces (ADF)

Front de libération du Congo

Rassemblement congolais pour la démocratie/Mouvement de libération (RCD/ML), also known as RCD/Kisangani and RCD/Bunia

Mongols (Hutu militia operating in the Masisi)

Local Defence Unit (paramilitary group organized by RCD/Goma)

Annex VII

NON-EXHAUSTIVE LIST OF HUMAN RIGHTS VIOLATIONS COMMITTED IN TERRITORY UNDER THE CONTROL OF THE GOVERNMENT OF THE DEMOCRATIC REPUBLIC OF THE CONGO AND BROUGHT TO THE SPECIAL RAPPORTEUR'S ATTENTION (16 December 1999 to 11 December 2000)

A. Right to life

Death penalty

19.11.99	Commanders Muzalwa Maroy, Issa and Onza, Mr. Burkassa and Mr. Ngimbi were arrested in August, tried in October and sentenced to death; pardon requested.
28.1-2.2.00	Nineteen soldiers sentenced to death and executed for incitement to revolt (eight), two for murder, and two for murder and armed robbery.
April 2000	Ngbali and Dede, who had been sentenced to death, were removed from the CPRT prison and never returned.
11.10.00	The Military Court (COM) sentenced Ndjango Mfunganzam Montula Benjamin to death. He was arrested in Kinshasa on 18 June 2000 and is a former commander of ANR in Equateur; he is considered to be a traitor since his wife is a member of the same family as Mobutu's wife.

Forced disappearances

13.1.00	Nicolas Bantu Mwamine (soldier); Aimé Ngoba Kitenge and Serge Itala Luzengu were arrested in December 1999 and severely tortured in Lubumbashi in the barracks of the Special Search and Surveillance Brigade. There has been no news of any of the three since 13 January.
30.10.00	Anselme Masasu Ningada, a former political prisoner who had been released following the amnesty, was rearrested, charged with organizing a plot in Kinshasa and subsequently taken to Lubumbashi. In connection with the same case, a large number of young soldiers from Kivu were arrested and taken to Kinshasa, where they are being held in a secret wing of the Kinshasa Penal and Rehabilitation Centre (CPRK).

Deaths resulting from abuse of authority

12.8.00	Ndingari, a shégué or street child, was for no reason murdered in the street by a police commissioner in Kinshasa central market.

Deaths resulting from torture

30.5.00 Kalombo Ilunga, who had been arrested by police special service officers in Lubumbashi, died under torture. His body was found in the morgue.

27.10.00 Kituni Masudi, a former soldier and member of the Special Presidential Security Group (GSSP), died under torture on 12 October 2000.

B. Right to physical and mental integrity

December 1999 Mulenda, Kasongo, Kabongo and Kabasele Kabengu, four students from the University of Mbuji Mayi, were charged with being infiltrators. They were presented to the press as such and were severely tortured. Taken to Kinshasa and released on 22 February 2000.

14.1.00 Kayembe Kasuku, a lawyer, was arrested by the National Information Agency (ANR) and taken to the prison, where he was stripped, tortured and beaten to the point where he lost consciousness. He was released and had to spend several days in intensive care in Kinshasa.

28.2.00 Nzuzi Phukatra Dieudonné, a journalist with the weekly La Plume d'Or and Chairman of the NGO Justice sans Frontières, was arrested by the police and brutally beaten. He was left severely injured without medical care.

4.3.00 Tshiiku Mutombo, Tshabangila and Kasongo Musongela, Presbyterian ministers, and Muponga Tshibangu, Mulaja Kavuwa, Musenga Tshuru and Makule Kanda Kanda of the same denomination were arrested in Mbuji Mayi and charged with being rebel infiltrators, when they were merely investigating alleged irregularities by a minister. They were beaten and tortured in an ANR building and released 24 hours later.

10.3.00 Vosso Fuila Mangovo, a church minister and representative of the Unification Movement/Cabinda, was arrested in Lemba (Kinshasa) and his home was looted. He was taken away by the National Police to the State Security Council (CSE) prison, where he was whipped for several hours. He was released on 16 April.

11.3.00 Macario Romao Lembe, Secretary-General of the Enclave of Cabinda Liberation Front (FLEC), was arrested by soldiers operating with Angolan soldiers in the Democratic Republic of the Congo. He was taken to the State Security Council (CSE) and tortured. He and Vosso Fuila were arrested in order to induce them to reveal the whereabouts of Antoine Bento Bembe, President of FLEC. Macario was released on 16 April 2000.

11.3.00 Pastor Ndunda Zoila, a representative of the Ubangi-Mongola Evangelical Community in Equateur, was arrested by ANR on arriving in Kinshasa and charged with collaborating with the rebellion.

30.4.00 Junior Koyagialo Ahonzima Wasasa, aged 18, was arrested by soldiers while driving in the vicinity of the Marble Palace in Kinshasa at a time when traffic was allowed. He was brutally beaten and sustained numerous injuries all over his body.

7.7.00 Mutangilay Ngandu was arrested in Masina (Kinshasa) and taken to a torture centre, where he was beaten, held underwater in a bath and sexually assaulted for being a Kasai and UDPS activist.

12.8.00 Christian Mpiana, a student, was arrested on suspicion of being, like his brothers, in the pay of the rebellion. He was stripped, tortured and received 30 lashes.

C. Security of person

24.5.00 Naupess Kibiswa Kwabene, a CADDHOM leader, was assaulted by soldiers, who beat him up and stole documents.

7.8.00 René Fataki was arrested on suspicion of having contacts with Tutsi, detained for 15 days and released on paying a fine.

9.8.00 Ilunga Kalambayi Félicien was arrested by soldiers belonging to the Fiftieth Brigade, and all his belongings were confiscated, because of a traffic offence.

August 2000 Mwami Bashali Mukoto Nyanguba, a Bahunde traditional chief, was questioned and threatened for having attended a seminar in Stockholm in February on assistance to victims of the war in the Democratic Republic of the Congo.

D. Liberty of person

5.1.00 Balanda Mikuin Leliel, former President of the Supreme Court, University of Kinshasa professor and former member of the South Africa Group of Three, was arrested by ANR for having been in contact with MONUC. Released on 19 January.

14.1.00 Chrispin Ipondo Banda, of UDPS, was arrested in Kalamu for endangering national security, insulting the Head of State and having photos with Tshisekedi. Released on 22 February.

15.1.00 Mudiayi wa Mudiayi and Tshishimbi, members of the office of Victor Mpoyo, Minister of State, were arrested. They had also been arrested in 1999.

24.1.00 Father François Mayerhofer, an Austrian, was arrested for allegedly financing the rebellion and released on 8 February. Forbidden to leave the country.

5.2.00 Peters Vaemarke and Nicolas, Belgian nationals, were arrested while leaving the Democratic Republic of the Congo in Ndilli, taken to the police station and searched. The documents they were carrying (report on prison situation, report on Belgian cooperation, etc.) were confiscated. Released on 19 February 2000.

27.2.00 Madilaku, a PALU leader, was arrested, together with a number of youths who were released, for political activities.

2.3.00 Pierre Mpini Moke, President of the International Commission for Action to Combat Drug Abuse, was arrested and charged with being in contact with the rebellion. This incident prompted a strong reaction by the United Nations. Victorine Pasinya, his wife, was also taken to the GLM, together with their two sons, who were tortured.

8.3.00 Mboyo Lokula was arrested on arriving in Kinshasa from Brussels via Brazzaville, for allegedly passing intelligence to the rebellion. She was still detained at the end of the month in deplorable conditions.

13.3.00 Basolo, a colonel in the former FAZ and serving military judge, was arrested for allegedly failing to comply with a 1998 order. Released on 15 March 2000.

1.4.00 Lubaya Panu, of the Kanaga Higher Rural Development Institute and Bakatupidia Tshiyoyo, director of PEAT (an NGO) and civil society president in Kasai Occidental, were arrested by ANT in Kinshasa, where they had gone to attend a meeting of savings and credit cooperatives organized by the Banque du Congo. The former was released without charge, but the latter was detained for criticizing a speech by the President.

23.4.00 Gabriel Kyungu wa Kumwanza, Ambassador of the Democratic Republic of the Congo in Kenya, and Emile Kanengele, ANR administrator, were arrested by the National Police special services in the Kin Maziere building, from which they were taken, without charges, to the State Security Council prison. Kanengele was subsequently released, but dismissed from his job. Kyungu is unofficially accused of having criticized his own Government. He is not allowed to receive visits, even by his wife.

5.5.00 Blaise Banzwa, Albano Mopipi, André Yoba and Kakule, leaders of the General Contributions Union, were arrested in the public hearings room of the Minister for the Civil Service while waiting for a hearing relating to trade union activities. They were taken to CPRK for engaging in an unauthorized demonstration.

2.5.00 Professor Ngoie Ndouba was arrested without charge by the Congolese National Police in Kinshasa. Released on 6 May 2000.

8.5.00	Lumbu Muhiya, administrator in the Kibembe Training Centre, Kapya, a Minister of the Siani Church, and Robert and Bendera, Lumbu's chauffeurs, were arrested by ANR in Lubumbashi and taken to the Special Presidential Security Group (GSSP) detention centre. Lumbu's residence was raided on 18 May.
25.5.00	Nkoso Imongo Y'Akoma, a student, was arrested by the police special services, tortured and accused of having taken part in a political meeting.
15.5.00	Agustin Maldonado and two other officials of the French solidarity association "Action Transport Logistique Assistance Service", which works with UNHCR, were arrested in Mbandaka, taken to Kinshasa and released on 25 May, no charges having been brought against them.
10.6.00	Ngoy Kasanji, President of the Congolese Gold and Diamond Federation, his wife and 12 other mining entrepreneurs were arrested by ANT/Lemera and taken to CPRK. Kasanji is the owner of a 265 carat diamond, which has been declared and taxed. He went to Kinshasa to sell it, but was arrested with 12 other people. All were granted bail on 27 July 2000.
June 2000	Nicolas Katako, the husband of the Minister of Transport, was arrested and taken to COM. Charged with treason for having authorized the operation of anti-government press organs in one of his apartments. Convicted of treason by COM.
28.6.00	Norbert Endonto Mokwele, an economics student at the University of Kinshasa, was detained in a DEMIAP building for alleged complicity with the rebellion.
29.6.00	Banzolani Ntantu Papy, commerce student in Kisangani, was summoned to DEMIAP on arriving in Kinshasa on 27 June. Went to DEMIAP on 29 June and was arrested on a charge of being an infiltrator.
22.7.00	Catherine Nzuzi wa Mbombo, leader of MPR "Fait Privé", was arrested because of a letter sent to OAU. Tried for treason by COM for having written political articles undermining army morale. The Rapporteur was able to secure her transfer to the General Hospital because of her poor state of health. Granted bail on 13 September 2000.
July 2000	Ngoto Yaga, former Secretary of State, Ngoto Charles and Ndolete, former SNIP police officers, arrested by DEMIAP/Kintambo, allegedly on charges of collaborating with the rebellion.
21.7.00	Louis Baruti Milengo, former Chief of Staff of the Zairian Air Force, was arrested by order of the Attorney-General of the Republic in connection with the sale of aircraft during the Mobutu dictatorship.

24.7.00 Justine Ningada, sister of Masasu Ningada, former presidential security adviser, was arrested for having in her possession an e-mail message from Belgian friends relating to personal effects.

26.7.00 Déogratias Bwakoma Bihaira, OFIDA inspector, Thomas Muulwa Kataala and Faustin Kibancha Kamala, a former member of HCR-PT, were arrested by the FAC and taken to ANR and then to PIR. The house where they were arrested was looted. Released in mid-August.

4.8.00 Dikenda Dikansi Kita, HCR adviser and jurist in Brussels, was arrested in Kinshasa in connection with an alleged attempt to assassinate a minister. Imprisoned in Kin Maziere and DEMIAP and later transferred to CPRK.

7.8.00 Leonard Francisco Mandlaze, a Mozambican, and the representative of the Kimbanguist Church were arrested for no reason in Kinshasa.

9.8.00 Bunga Kalamba Félicien was arrested for protesting to an army driver about the speed at which he was driving in town; was taken to the army camp prison in Kokolo.

11.8.00 Willy Sapo Baramoto, former member of the Civil Guard in Mobutu's time was arrested because of his family links with former General Baramoto and taken to the DEMIAP prison.

15.8.00 Bitakwira Justin, Simon Mwanza, Mbole Musonge and Nkelende François, senior members of the pro-Government institution Défense civile et Populaire (DCP), was detained without charge for several days without knowing why and without being taken to a court. Released on 18 September 2000 on condition that they joined the CPPs.

19.8.00 Bonane Mushi, lawyer and businessman, was arrested by ANR in his office and charged with preparing a coup d'état, even though he is a prominent member of Réunion de la défense civile à l'est or the Kinshasa Mai-Mai.

21.8.00 Munyanga Mukongo, Head of the School of Hygiene and Professor of Medicine at the University of Kinshasa, was arrested by ANR for having attended a seminar in Stockholm in February on assistance to victims of the war in the Democratic Republic of the Congo. Not allowed any visits.

26.8.00 Jean-Marie Mungambische, a law student, was arrested and held by the State Security Council for alleged collaboration with the rebellion.

16.10.00 Modeste Mutinga, Polydor Muboyayi, Alexis Mutanda and Zacharie Nyembo, publishers or editors of Le Potentiel, Le Phare, La Tempête des Tropiques and La Tribune, were summoned by the National Police and warned not to publish any further articles tending to undermine the morale of the armed forces. They will be tried for treason, which carries the death penalty.

17.10.00 André Tshowa Mbuisha, investigative journalist, was abducted by six FAC soldiers, tortured, threatened and eventually released; for a long time afterwards, he suffered the psychological effects of torture.

11.11.00 Feu d'Or Bonsange Ifonge, a journalist with the publication L'Alarme, was arrested in connection with for an article on the situation in Mbandaka. The fate of the three people accompanying him - Arisote Dola, Kala Bokango and Guy Batshika - is unknown.

14.4.00 Ngola Massa Sylvain, FAC commander and former member of the FAZ, was arrested without charge by ANR in Kinshasa and taken to CPRK.

June 2000 Pastor Henri Bashige was arrested by DEMIAP without being charged with any offence; currently held in CPRK.

6.9.00 Chico Ilunga Kamwemwe was arrested in the commune of Barumbu for failing to produce an identity card. Released on 22 September 2000.

7.9.00 Maurice Dawana Falganga, former ANR official, was arrested without reason and not allowed any visits.

10.9.00 Freddy Libeba, was arrested without charge in Kinshasa after deserting from MLC.

14.10.00 Ubulisa Kabanda Monique, Rukabuza Raymond, Bazatoa Eufrem, Beju Musangwa, Beya Muhama Jean, Furaha Semapara, Gatera Jules, Kabata Mpoyo, Lonji Munyezamu, Munyezamu Ramazani, Muragizi Rugororoka, Nbamboneka Gitugu, Nezia Namutungo, Rubimbura Oliver, Ruwungubuza Buduguza and five children were arrested in Mbuji Mayi and taken to Kinshasa, where some are being held by DEMIAP and others by ANR for being of Tutsi origin or being Tutsi in appearance.

18.10.00 Commander Germain Ndaba Meya, deputy prosecutor in the Military Court (COM), and police inspector Ambroise Kusa were arrested in the middle of a COM session in public, before defendants and lawyers, by order of Lieutenant-Colonel Charles Alamba Mongako, military prosecutor, because of an accusation made against the latter. Subsequently released.

October 2000 Itela Sebastian, Itela Eddy, Ilunga and Simon were arrested in Mbandaka and taken to Kinshasa, where they are still being held. They were severely tortured in Mbandaka. The charge against them is the usual one of being rebels.

E. Right to enter and leave the country

27.1.00 François Aicher, Pierre Laschan and Charles van Haecke - German, Austrian and Belgian priests, respectively - were arrested on 22 January and forbidden to leave the country. The same happened to Father François Mayerhofer.

16.2.00 Christophe Lutundula Apala, President of MSSD, was forbidden to leave the country while travelling to Cotonou to attend a conference on transition questions. Allowed to travel two days later.

14.4.00 Jean-René Biduaya of Radio Raga and Jean-René Lumbana Kapasa were not allowed to leave the Democratic Republic of the Congo because of an interview with Kyungu wa Kuwanza. Not allowed to attend a preparatory meeting for inter-Congolese dialogue in Benin.

11.7.00 Mireille Kamitatu, a local UNDP staff member, was not allowed to leave the country.

25.7.00 Nestor Ngoy Katahwa, Bishop of Manono, was not allowed to return to his diocese after travelling to Kinshasa to attend a meeting of the Conference of Bishops.

F. Right to due process

25.11.99 In January, Kamitatu Massamba, President of the Collectif de l'opposition démocratique plurielle (CODEP) and father of independence, had still not been tried in connection with an article on the war. He is on death row in CPRK. He was arrested after publication of an article in which he stated that, after the Lusaka ceasefire, all Congolese (including RCD and MLC) should stop calling each other aggressors. The next day, he was arrested in connection with the sale, in 1984, of the embassy in Japan, where he had been Ambassador. On 9 March 2000, he was pressed to write to his son, an MLC member, in order to ask him to attend a national consultation convened by the churches. Initially, he refused but later agreed, after receiving a promise of release. But no MLC member attended the consultation. Kabila asked him for a certificate testifying to his intervention, but he refused. Just one day after his refusal, judicial proceedings were instituted in connection with the purchase of a number of four-wheeled drive vehicles in 1994, when he had been Minister of Agriculture. He was not given the February amnesty.

It should be added that, on 19 December 1999, the Supreme Court ordered him to be placed under house arrest. However, the Attorney-General's Office did not comply. When in January the prosecutor requested an extension of pre-trial detention, the Supreme Court refused, maintaining that he should have been under house arrest. He remained under detention and untried until appearing in court in January in connection with the purchase of the Pajeros.

Owing to procedural irregularities and the bias of and pressure on the Supreme Court judges, Kamitatu and his 15 lawyers decided not to participate in the trial. He was eventually sentenced on 12 June to four years' hard labour and five years' deprivation of the right to hold public office, without entitlement to release on bail.

30.5.00 Yange Longange, Chief Public Prosecutor of the State Security Court, was arrested without a warrant by army General Yav for having refused to order a raid on the Belgian Embassy. One of the Prosecutor's assistants was beaten and detained. They were released on 17 June 2000.

7.7.00 Seven OFIDA trade union leaders were arrested for sending the Government a letter expressing their demands. Accused of attempting to undermine State security.

G. Right to freedom of expression and opinion

6.1.00 Fredy Loseke, editor of Libre Afrique, was arrested because of an article stating that the military coup in Côte d'Ivoire could be repeated in the Democratic Republic of the Congo. Reports of torture. 22.2.00: imprisoned in CPRK. Appeared before COM in March; did not benefit from the amnesty. On 19.5.00, International Press Day, he was sentenced to three years' imprisonment for insulting the armed forces and publishing false rumours.

25.1.00 An attempt was made in Kinshasa to abduct Jérôme Debo, who works for Journalistes en danger.

11.3.00 The Minister of Justice placed Radio Tele Kin Malebo (RTKM) under the administration of the Misappropriated Property Office (OBMA). An inventory was taken of its property, it was required to produce its accounts and it remains under OBMA administration.

13.3.00 Donatien Nyembo Kimuni, journalist with La Tribune, was arrested in Lubumbashi in connection with an article on ANR, whose director is a brother of President Kabila.

February 2000 Modeste Mutinga of Le Potentiel was harassed in connection with articles on a Security Council meeting in New York: his vehicle was surrounded by soldiers and his chauffeur beaten.

10.4.00 Kasonga Tshilunde Boucar, of L'Eveil, was arrested at Kananga airport while boarding a plane to Kinshasa.

3.6.00 Paulin Tuluma Amboko Jitac, journalist with Vision, was arrested by police in Kasavubu.

14.6.00 Richard Nsamba Olangi, editor of the newspaper Le Messager Africain, was arrested for defamation following a complaint by the former Governor of Kasai oriental.

23.6.00 Caroline Pare, a BBC producer, was arrested while interviewing Jonás Mukamba, one of the last people to see Lumumba alive, on whom she was preparing a report. Subsequently released.

8.6.00 Jean-Kenge Mukengeshayi, editor of Le Phare, was questioned twice in seven days and eventually detained in custody.

24.6.00 Emile Aimé Kakese Vinalu, of Le Carrousel, was arrested in connection with articles on the Congolese opposition and on the arrest of Minister Victor Mpoyo. Tried by COM for treason and sentenced to two years' imprisonment on 12 September 2000.

26.6.00 Jacques Bololo, distributor of the satirical publication Pot Pourri, was arrested in Kinshasa while doing his work. Released the next day.

11.7.00 Fortnightly periodical Vision banned and copies confiscated by ANR personnel. Xavier Bonane Yanganzi, editor (presumably of Vision) was detained until his appointment on 1 July 2000 as deputy in the National Assembly. Released on 16 July 2000.

20.7.00 Francine Mokoko, Radio Africa No. 1 correspondent, was summoned and questioned by the police without explanation.

15.8.00 Richard Nsamba Olangi, editor of Le Messager Africain, was rearrested in August and released after several days of detention. Sentenced by COM to one year's imprisonment for "treason".

17.8.00 Jean-Pierre Mukuna Ekanga, editor of the newspaper Tribune de la Nation, was arrested. Sentenced by COM to one year's imprisonment for "treason".

20.8.00 Pierre Kambidi, Le Phare correspondent in Tshikapa, Kasai occidental, was arrested in connection with critical articles. Released on 26 September 2000.

1.9.00 Frank Baku, journalist, was arrested for an article in La Référence Plus, in which he described Congolese justice as "iniquitous" following a decision in a divorce case. Released on 21 September 2000.

3.9.00 Franck Ngyke, journalist with La Référence Plus, was arrested for reasons unknown. Released on 8 September 2000.

14.9.00 The private radio stations Elikya, Réveil, Malebo, TKM, Sentinelle and Kintuadi and the television stations Antenne A, Canal Kin 1, Canal Kin 2 and TKM were forbidden to broadcast by order of the Minister of Information. The television stations were authorized to resume broadcasting on 14 October under government supervision.

H. Freedom of association

Political parties

7.1.00 PALU activists were arrested and released on 11 January for taking part in a political meeting (Willy Kakesa, Kapembi Niangi, Jules Lufungula, Jean Mindele, Kilundu Malu, Ruffin Simisi and Joseph Gingeleji).

16.1.00 Twenty-three FONUS activists were arrested for meeting in the home of Olengha Nkoy.

17.1.00 CPP members attacked PALU headquarters in Kinshasa and arrested four PALU activists.

27.2.00 Twenty-seven PALU activists were arrested in Kinshasa for preparing to participate in a political meeting. Released the next day.

29.2.00 Mwamba Sawo, Kashala Tatu, Manianga, Patrice Badibangu, Willy Monse, Kelly Npase and Lukaya Kwalayien of UDPS were arrested for wearing "National Consultation" T-shirts. Released the following day.

15.3.00 Joseph Olengankoy, President of FONUS, was forbidden to give a press conference. On 6 April, he was questioned about his appeal for support for a general strike on 8 April, which proved a failure.

16.3.00 Twenty activists belonging to the Front pour la survie de la démocratie, presided over by Eugène Diomi Ndongala, President of Christian Democracy, were arrested on arriving at a demonstration in a square in Ndilli which had not been authorized, even though such authorization had been twice requested. Ndongala was released on 6 April 2000. However, on 3 May his home was raided and an inventory taken.

7.4.00 Dialungana Kutima Mongo, a FONUS leader, was arrested by the National Police investigating party activities. Released on 11 April.

8.4.00 Raphael Kumbu-ki-Lutete, President, and 12 leading members of the Alliance des nationalistes pour le développement et la reconstruction (ANADER) were arrested at party headquarters. They were released on 10 April 2000.

22.4.00 On the occasion of the arrest of Jean-François Lumumba Tolenga, President of MNC/L, and Boyeca Bo Iyeli Pombo, Deputy Secretary-General, all activists attending the same meeting, were beaten and all party documents confiscated. They were released on 3 May 2000.

19.5.00 Tommy Tambwe, Lambert Konza and Séraphin Mirindi were arrested for sending a memorandum to Matsire.

9.6.00 Nine FONUS activists were arrested in Kinshasa for "political activism".

9.7.00 Albertine Pangu Kilembe, Aimé Bwende, Samuel Molende, Raphael Kapambu, Eugène Muebeya, Theo Tumba, Aimé Ilunga, Papy Prince Nkongolo, Léon Meda and Richard Malangu, UDPS activists, were arrested by PIR in Ndjili (Kinshasa) at the home of another activist, where they had gathered to listen to a message recorded in Brussels by Party President Etienne Tshisekedi wa Mulumba. They were held by Circo in Kinshasa, but this was denied when the Special Rapporteur inquired about the matter. Transferred to CPRK when the Special Rapporteur arrived on 14 August.

22.8.00 Denis Tabiana Gansia, Vice-President of the Democratic Social Christian Party, was arrested on suspicion of having contacts with officials from the United States Embassy. Released three days later.

11.10.00 Faustin Nyati and Mukendi, UDPS leaders in Ndjili (Kinshasa), was arrested by soldiers and taken to the Provincial Police Inspectorate, where a further five detainees were released.

11.10.00 Christian Badibangi, President of the Union socialiste congolaise (USC) party, was arrested by the police and taken to the Provincial Inspectorate; not allowed to receive visits or lawyers. Released on 15 October 2000.

15.11.00 Eugène Diomi Ndongola Nzamambu, President of the Christian Democrat party, was arrested for statements in La Référence Plus by soldiers who took him to ANR. Moved to CPRK on 2 December 2000.

Human rights defenders

23.5.00 Floribert Chebeya, a well-known human rights defender and President of Voix des Sans Voix, and members of his staff were harassed following the publication of a report on human rights in the Democratic Republic of the Congo.

29.5.00 Georges Kazimbika Kihumba, finance officer of the Conseil national des organisations non-gouvernementales de développement (CNONGD), was arrested by ANR officers. Félicien Mlanda Nsumbu, Executive Secretary of the same organization, was arrested on 2 June. They were released on 26 June 2000.

23.6.00 Reverend Placide Tshisumpa and Jonas Mukamba Kadiata Nzemba, President of the Section internationale des droits de l'homme and member of the Fraternité nationale des prisons, were arrested in the latter's home. Sylvain Tshitenge Kamunkolo and Christophe Tshimona were also arrested when they tried to visit them. On the eve of the Special Rapporteur's arrival, they were taken to CPRK. On the following days, 38 people, including a 10-month-old baby, were arrested and spent several days in DEMIAP for having been in contact with Jonas Mukamba.

6.7.00 Golden Misabiko, President of ASADHO/Katanga, summoned by ANR to explain accounts of torture contained in an ASADHO report. On 15 July, Freddy Kitoko, also of ASADHO, was summoned for the same purpose.

20.10.00 Barthélemy Bubu Masiala, leader of the NGO Structure de culture et d'éducation populaire et des droits de l'homme (SCEPDHO).

31.10.00 The PIR Director of Operations, without any authority, ordered his arrest in his absence. Although this order, due to be carried out on his return from abroad, was suspended, he was summoned to appear before PIR on the day following his arrival.

I. Freedom of thought, conscience and religion

27.1.00 François Aicher, Pierre Laschan and Charles van Haecke - German, Austrian and Belgian priests, respectively - were arrested on 22 January and forbidden to leave the country. The same happened to Father François Mayerhofer.

13.2.00 Munada Nsemi, leader of the religious sect Bundu dia Kongo, was arrested by ANT/Matadi and taken to Kinshasa following a seminar on Kongo culture. Released on 10 March 2000.

4.3.00 Tshiiku Mutombo, Tshabangila and Kasongo Musongela, Presbyterian ministers, and Muponga Tshibangu, Mulaja Kavuwa, Musenga Tshuru and Makule Kanda Kanda of the same denomination were arrested in Mbuji Mayi and charged with being rebel infiltrators, when they were merely investigating alleged irregularities by a minister.

10.3.00 Vosso Fuila Mangovo, church minister and representative of the Unification Movement/Cabinda, was arrested in Lemba (Kinshasa); he was taken away by the National Police and later moved to the State Security Council prison, where he was whipped for several hours. Released on 16 April.

11.3.00 Reverend Ndunda Zoila, representative of the Ubangi-Mongola Evangelical Community in Equateur, was arrested by ANR on arriving in Kinshasa and charged with collaborating with the rebellion.

8.5.00 Lumbu Muhiya, Kibembe Training Centre administrator, Kapya, Siani Church minister, and Robert and Bandera, Lumbu's drivers, were arrested by ANR in Lubumbashi and taken to the GSSP detention centre. Lumbu's home was raided on 18 May.

Annex VIII

NON-EXHAUSTIVE LIST OF HUMAN RIGHTS VIOLATIONS COMMITTED IN TERRITORY UNDER THE CONTROL OF REBEL MOVEMENTS AND BROUGHT TO THE SPECIAL RAPPORTEUR'S ATTENTION (16 December 1999 to 11 December 2000)

A. Right to life

Death penalty

17.3.00	The Operational War Council tried corporal Jean-Claude Baritegera for murder twice within less than 48 hours; the death sentence was carried out on 22 March.
July 2000	Mbusa Bienvenu, Kisubi Hamuli and Mushagalusa Mwamba were sentenced to death at first instance by the Operational War Council. They appealed.
15.7.00	Former soldiers Athanase Chiza and Alexis were executed for desertion.
5.9.00	Commander Tshisekedi Kilo Kilo and two other persons were sentenced to death by the Operational War Council.

Forced disappearances

2.4.00	Christian Ngongo Kasuma, a businessman, was arrested by the RCD security services in RCD-controlled territory on returning from Nairobi and disappeared.

Deaths resulting from abuse of authority

9.1.00	Father Isidore Munyanshongere, of the Catholic Church, was murdered by a Rwandan soldier near Goma.
16.1.00	Rémy, self-employed, was murdered in cold blood by Rwandan soldiers in Uvira at 5 a.m. on suspicion of being a Mai-Mai.
25.1.00	Mushugwa Ruhamiriza Philippe, a money-changer, was attacked by Rwandan soldiers who stole his money and household effects, fired a machine-gun at his legs, came back and fired one shot to his head and sliced open his stomach with a machete.
28.1.00	Banyamulenge soldiers from Kataka camp in Mulenge abducted Masumbuko Mupaya and the wife of a citizen by the name of Gilbert, both Bahemas, and killed them in the jungle without any reason.
15.2.00	Banyamulenge soldiers attacked Saint Kizito de Kiliba parish church, killed the guards and church administrator Kibugu Pépé Rémy and then set fire to the church.

16.2.00 Abduction of two Baptist ministers in Vuatsinge, near Butembo. Both are presumed dead.

10.3.00 Lwina Samule was attacked by RCD soldiers in his home in the vicinity of Rutshuru, North Kivu. He resisted, but was shot dead and stabbed with unbelievable ferocity. Lwina Bwangi, his 17-year-old daughter, who recognized the perpetrators of the attack, was also murdered later.

24.3.00 Thomas Kumbuka, a Hunde farmer, was shot dead by RCD soldiers on the pretext that he was an Interahamwe.

31.5.00 Attack by APR soldiers on the Catholic seminary in Murhesa; the seminarian Amusati Kasuya and the guard Mushobekwa Nyange were murdered.

29.8.00 A married couple named Joseph and Sylvia were murdered by Ugandan soldiers in Beni.

30.8.00 Prosecutor Kahanya was murdered by Ugandan soldiers.

4.10.00 A Rwandan citizen, thought to be a paramilitary, murdered a student who was expressing his solidarity with Archbishop Kataliko, who had died the previous day in Rome. The building used by the Groupe Jérémie (an NGO) was looted, the soldiers stealing cash, computers and all documentation.

10.9.00 Muhino Fiston was murdered by Ugandan soldiers in Butembo.

10.9.00 Kapisa was murdered by Ugandan soldiers in Butembo.

26.10.00 Genge was murdered by members of the people's self-defence group in Goma.

Deaths resulting from torture

Kakule Gabriel, a Congolese citizen, was arrested and tortured by Ugandan soldiers in Beni: scalded, whipped, crucified and humiliated, he died as a result of his ordeal. All this was carried out in public, with the clear message that anyone who collaborated with the Mai-Mai would suffer the same fate.

B. Right to physical and mental integrity

16-18.11.99 Kabahukere Kabuya, Jacques Muhute, Sulube Bintu and Mombi, who have been in detention since these dates, have been suffering continuous torture in the Bureau II Prison on the pretext that they are Mai-Mai.

3.2.00 Mwali Ngoyi Jules and Takenge Bashilongo were arrested for not having repaired the vehicle of a Congolese serving in RCD and beaten (50 blows).

14.2.00 Bilombe Jean Mambo, Kizo Baba Sadiki, Kaubushi Richard, René Masumbuko, Isa Picol Plan, Masu, Hamuli and Maina were arrested in Goma (North Kivu) and tortured by RCD soldiers who accused them of intending to take part in the strike to be held that day.

12.3.00 For no reason, as is the usual practice, two Congolese students were arrested and tortured by Ugandan solders in a container in the vicinity of Bunia airport.

July 2000 Commander Mukalayi and the Commissioner for Mines and Energy were arrested and tortured by RCD/ML in Rwampara, near Bunia.

C. Security of person

1.2.00 The Makuta family, in Kadutu (Bukavu), was shot by solders trying to steal money from their home. Bora Uzima Masumbuku, Bora Uzima Mzazi, Bafunyembaka Régine and a neighbour, Marceline, were wounded.

3.3.00 RCD soldiers attacked the home of Kazozane Désiré and stole all his possessions. Shortly before, they had done the same to Utimire André, whom they also shot in the leg.

19.3.00 The Holy Family Convent in Nyakavogo was looted by RCD soldiers who spoke Swahili and Kinyarwanda.

4.5.00 Mwita Rugenge Noella, a grass-roots organizations leader in South Kivu, was attacked by RCD soldiers on returning from Kinshasa, where she had participated in the "national consultation". She suffered two broken ribs.

5.5.00 Colette Kitoga, coordinator of the Centre psychomédical CMM, was questioned by the RCD security services on arriving from Geneva, where she had attended the session of the Commission on Human Rights. Her passport was confiscated because she had travelled without a permit.

5.7.00 Attack on Luhwinja parish church. RCD/Goma members attacked the church and dispensary. Although the incident was reported to the APR authorities, they did not arrive on the scene until the attack was over.

26.9.00 Jean-Pierre Bosingizi, Kachu Karume and Jackson Bwendo were arrested in Bukavu and taken to BSRS and ANR, where they were tortured to force them to admit responsibility for a grenade attack on the fair held in the brewery on 28 August.

D. Right to liberty of person

1.1.00 Kataliko Kanyunyu, Justice and Peace Commission in the Catholic diocese of Butembo-Beni, was arrested for preaching at the funeral of Lumbu Lumbu, who had died as a result of torture. The bishop of the diocese was threatened.

29.1.00	Eight Congolese were arrested by ANR in Goma, including NGO leaders Patient Bagenda Balagizi (Comité Anti Bwki and CEDAC), Gustave Lwijire of Bukavu Cathedral and Ramos Ramazani Musombo. Released between 1 and 3 February.
3.2.00	In an effort to prevent the strike of 14 February, Mr. Bagunda, President of the Congolese Red Cross, Inspector-General Léon Mbala Mbala, Second Vice-President Nturubika Bitaombe and emergency services chief Alidor Kangele bis Kazembe were arrested in Uvira.
14.2.00	Kambale Bahati, Honoré Kabunga and a third person were detained in the "Chien méchant" compound, charged with having assisted the escape of another person to whom they had given a cassette recording of the demonstrations on that day. As at the end of July, they were still being held in the same compound in appalling conditions.
2.4.00	Christian Ngongo was arrested and charged with being a Kinshasa collaborator. Released without trial on 21 July.
13.4.00	Dr. Byamungu Lufungulo, was detained after being abducted and was severely tortured in the ANR prison.
April 2000	José Endundo, former RCD finance officer who deserted, was arrested in Goma.
26.4.00	Bruno Bahati, leader of the Ensemble pour la défense des droits de l'homme (EDDH), was arrested near the Ugandan-Congolese border and taken to Katuna (Rwanda) after arriving from Kinshasa, where he had taken part in the "national consultation" organized by the churches. On 11 May, the Special Rapporteur wrote to the representative of the Commission on Human Rights asking him to intercede on Mr. Bahati's behalf. Taken to Goma at the end of May and not released until 8 July.
6.6.00	Bonheur Badesire Isungu was arrested by APR and taken to Kalemie for having had contacts with the former AFDL governor of South Kivu, Charles Magabe.
13.7.00	Mutanya Ndume Papa Lecky, Mubake Casino and Mwasa Mbilizi, leaders of the Congolese Enterprise Federation (Mwenga section), were arrested in order to force them to pay an illegal tax. Released on 18 July, but forbidden to leave Bukavu, where they had been taken.
3.7.00	Habamungu Didier, a teacher, was arrested and taken to the "Chien méchant" compound of the National Security Department (DGS); accused by a girl pupil of Tutsi origin of uttering threats. Released on 21 August 2000.

27.7.00 Faustin Kibancha Kamala, CODHO coordinator in Kinshasa and civil society member for North Kivu, Bwakoma Biayira, President of the Batembo Mutual Association (SIBU-Syndicat d'initiative de Butembo), Thomas Muulwa and other persons of Tembo origin were arrested by ANR in Kinshasa.

27.7.00 Félix Negura, teacher, was arrested for having criticized RCD officials.

23.8.00 Minembwe Nkano was detained in the Bureau II centre for alleged collaboration with Kinshasa and Mai-Mai.

2.9.00 Paul Vikanza, Commander Mesmin, Archipe Agustin and Anselme were arrested in Butembo and Beni by Ugandan army commanders.

12.9.00. Kabandauli, a Congolese policeman, was arrested by Ugandan soldiers after threats and intimidation uttered in radio broadcasts by Ugandan soldiers. Held in a pit near Ruenda airport.

14.9.00 Otto Bahizi, RCD Chief of Protocol, was arrested for unknown reasons by the RCD Security Department.

28.9.00 Karume Cisirika Kacho was arrested and accused of participating in the grenade attack on the brewery in Bukavu.

28.9.00 Jean-Pierre Busingisi, Pius Rugamika Mena Kayembe, Omer Kamosso and Déogratias Mbalabala were arrested and accused of participating in the grenade attack on the brewery in Bukavu.

29.9.00 Church minister Masengo was detained in the Sixth Brigade barracks for alleged collaboration with armed groups.

18.10.00 Ramazani Kulimushi, Director of Radio Télévision Nationale Congolaise/Goma, was arrested for authorizing the broadcast of a song considered to be seditious and taken to the "Chien méchant" torture centre. Released on 26 October 2000.

E. Deportations

10.5.00 Tambwe, a businessman from Kadutu (South Kivu), was arrested after returning from Rwanda, where he had gone to buy goods, and was taken back to Rwanda, where he is being held on the pretext that he is an Interahamwe.

15.5.00 Sylvain Mudimbi Masudi, Executive Director of Les Amis de Nelson Mandela, was arrested by RCD/ML members in Beni while travelling to Kisangani from Geneva, where he had attended the fifty-sixth session of the Commission on Human Rights. Taken to Uganda.

16.7.00 Bienfait Mushagalusha, civil society leader in Bukavu, was arrested with his wife and two children, who were subsequently released. He was tortured and taken to Changungu in Rwanda.

2.8.00 Lusambo wa Karume, Dean of the Bukavu Bar Association, and Dr. Safari wa Karume, his brother, were arrested at the Rwandan-Congolese border and taken to Rwanda while travelling to Nairobi for medical treatment. Thanks to intercession by the Special Rapporteur with the RCD authorities, they were released by the Rwandan authorities and are currently in Nairobi.

F. Right to enter and leave the country

1.3.00 Ntabaza was refused permission to leave the country. He did not manage to leave until 14 March 2000.

17.3.00 Rutakemwa Kwibuka Crisipiin did not obtain authorization to travel abroad. Granted a permit some days later.

24.3.00 Ranjenie Barha Baba and Ms. Kangene Marthe were unable to travel to Cameroon for personal reasons after having been refused a permit.

19.9.00 N'Denga Jacques, who tried to form the independent political party Mouvement patriotique congolais (MPC) in Goma, left the territory controlled by RCD.

G. Freedom of expression and opinion

January 2000 Radio Maendeleo journalists were arrested and broadcasting equipment was destroyed by RCD soldiers in Bukavu.

15.2.00 Nicaise Kipel Bel Oka, editor of Les Coulisses newspaper, was summoned by the security services and threatened because of an article on the economic commitments undertaken by RCD with foreign investors, mortgaging the Congo for 60 years.

5.3.00 The Congolese National Radio and Television Corporation building in Goma was raided during a search for Désiré Simbi, a reporter, who had stated on the air that the Congolese people could free itself from oppression by non-violent means. Since he was not there, other reporters were beaten and threatened by RCD military security personnel.

25.5.00 Nicaise Kipel Bel Oka, editor of Les Coulisses newspaper, was arrested for having stated that Kabila should be given an opportunity to participate in the inter-Congolese dialogue. The order originated directly from Emile Ilunga, President of RCD. The editor was expelled to Butembo.

26.8.00 Jean-Pierre Tanganyika, photographer, was arrested for taking photos of the victims of the grenade explosion at the brewery fair. Released on 16 September 2000, but later disappeared.

H. Freedom of association

Human rights defenders

15.12.99 Muchanga Kiitsi, CRONGD leader in North Kivu and member of the North Kivu Neo-Apostolic Church, was arrested in Goma after returning from abroad.

15.1.00 Immaculée Birhaheka and Jeanine Mukanirwa, President and Vice-President of the Programme L'appui aux initiatives féminines (PAIF), were arrested and released the next day.

29.1.00 Eight Congolese were arrested by ANR in Goma, including NGO leaders Bagenda Balagizi (Comité Anti Bwki and CEDAC), Gustave Lwijire of the Catholic Cathedral in Bukavu and Ramos Ramazani Musombo. Released between 1 and 3 February.

25.3.00 Kule Thata Joseph, coordinator of the Fondation Yira pour les droits de l'homme, arrested by ANR in Beni for criticizing RCD. Was given very little food.

1.6.00 Valentin Baelongandi, of Lotus (an NGO), was arrested in Goma by the RCD/Goma security services for possessing subversive documents, i.e. reports on human rights. Held in the "Chien méchant" compound and robbed of money. Released on 20 June 2000.

29.8.00 Gervais Chirhalwira Nkunzimwami, Paulin Bapolisi Bahuga, Régine Mutijima Bazalake and Alois Muzalia Wakyebwa, civil society leaders in South Kivu, were arrested for allegedly being responsible for the attack on the brewery. Released on 22 September 2000.

9.10.00 Marcelin Musemakweli, Muzalia Loochi, Francolis Maheshe, Michel Aissi, Raphael Wakenge, [illegible]enantie Bisinwa, Dieudonné Mushagalusha, Oscar Baharanyi Bya Dunia, Jules L[illegible]esso, Moïse Cifende, Dunia Yogolelo, Kizungu Loochi, Judge Emmanuel Shamavu, Kiza Kamatando, Moro Tubibu, Nestor Bauma and Joli Yaya, civil society and NGO leaders and human rights defenders, were arrested and brutally beaten by RCD soldiers, both in the street and in Saio barracks, for having met on 3 October in Goma with Mrs. Mary Robinson, United Nations High Commissioner for Human Rights. Many of them also met with the Special Rapporteur during his visit to Goma. They were released in the evening of the same day.

26.10.00 Gilbert Chigangu, leader of the Grande Vision organization, was summoned to the court of major jurisdiction for no apparent reason; subsequently allowed to leave.

2.11.00 Kabulinda Noé, Désiré Simbi and Jean Bosco Malye, director of SOPROP (an NGO), were arrested for having announced the opening of a rehabilitation centre for torture victims. Released on the same day.

I. Freedom of thought, conscience and religion

9.1.00 Father Isidore Munyanshongere of the Catholic Church was murdered by a Rwandan soldier near Goma.

9.4.00 RCD soldiers attacked the seminary in Buhimba, killing one priest and wounding another. They tried to rape a nun.

31.5.00 APR soldiers attacked the Catholic seminary in Murhesa, killing the seminarian Amusati Kasuya and the guard Mushobekwa Nyange.

The priests in Uvira are subjected to constant threats, following the killings of several of their number.

The following were prevented from leaving RCD-controlled territory: Kuye Ndondo, President of the Christe du Congo Church, members of the OKPA Protestant group, Anglican bishop Mushunganya of Bukavu and Reverend Bulambo. None of them was able to attend a meeting in Nairobi in September 1999.

6.2.00 APR soldiers killed a large number of people in Kilambo (North Kivu) on the pretext that they were supporting the Interahamwe. One of them was a Protestant minister (Mamboleo).

12.2.00 Emmanuel Kataliko, the Archbishop of Bukavu, was arrested in Goma.

15.2.00 Banyamulenge soldiers attacked Saint Kizito de Kiliba parish church, killed the guards and church administrator Kibugu Pépé Rémy and then set fire to the church.

16.2.00 Abduction of two Baptist ministers in Vuatsinge, near Butembo. Both are presumed dead.

19.3.00 The Holy Family Convent in Nyakavogo was looted by RCD soldiers, who spoke Swahili and Kinyarwanda.

26.3.00 The Ciriri Catholic church was looted by Rwandan soldiers.

9.4.00 RCD soldiers attacked the seminary in Buhimba, killing one priest and wounding another. They tried to rape a nun.

31.5.00 APR soldiers attacked the Catholic seminary in Murhesa, killing the seminarian Amusati Kasuya and the guard Mushobekwa Nyange.

5.7.00 Another attack on Luhwinja parish church. RCD/Goma members attacked the church and the dispensary. Although the incident was reported to the APR authorities, they did not arrive on the scene until the attack was over.

10.12.00 The Governor of South Kivu banned meetings of the Catholic and Protestant churches, which were making preparations for a "day of peace" to be held in February 2001. Soldiers surrounded the Archbishop's residence in Bukavu.